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A HISTORY OF POLITICAL THEORY

A HISTORY
OF
POLITICAL THEORY

BY

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To

THE MEMORY OF

WALTER JAMES SHEPARD

IUSTUM ET TENACEM PROPOSITI VIRUM
NON CIVIUM ARDOR PRAVA IUBENTIUM,
NON VOLTUS INSTANTIS TYRANNI,
MENTE QUATIT SOLIDA.

PREFACE

THIS history of political theory is written in the light of the hypothesis that theories of politics are themselves a part of politics. In other words, they do not refer to an external reality, but are produced as a normal part of the social *milieu* in which politics itself has its being. Reflection upon the ends of political action, upon the means of achieving them, upon the possibilities and necessities of political situations, and upon the obligations that political purposes impose is an intrinsic element of the whole political process. Such thought evolves along with the institutions, the agencies of government, the moral and physical stresses to which it refers and, which one likes at least to believe, it in some degree controls.

Thus conceived, the theory of politics no more reaches an end than politics itself, and its history has no concluding chapter. If there is a divine, far-off event towards which human history moves the author of this book makes no pretence of knowing what it is. Taken as a whole a political theory can hardly be said to be true. It contains among its elements certain judgments of fact, or estimates of probability, which time proves perhaps to be objectively right or wrong. It involves also certain questions of logical compatibility respecting the elements which it tries to combine. Invariably, however, it includes valuations and predilections, personal or collective, which distort the perception of fact, the estimate of probability, and the weighing of compatibilities. The most that criticism can do is to keep these three factors as much as possible distinct: to prevent preferences from claiming the inevitableness of logic or the certainty of fact.

It cannot be supposed that any political philosophy of the present time, more than those of the past, can step out of the relationships in which it stands to the problems, the valuations, the habits, or even the prejudices of its own time. A writer of history, at least, ought to avoid the egoism that makes every generation fancy that it is the heir of all the ages. On the other hand, he can make no profession of impartiality beyond that fidelity to sources which is the obligation of every serious historian, or beyond that avowal of conscious preferences which should be expected of every honest man. In any other sense the claim of detachment is a superficiality or a pretence.

A reader is entitled, if he is interested, to an avowal of an historian's own philosophical preferences. Those of the author are in general agreement with the results of Hume's criticism of natural law described

in the first part of Chapter XXIX. So far as he can see, it is impossible by any logical operation to excogitate the truth of any allegation of fact, and neither logic nor fact implies a value. Consequently he believes that the attempt to fuse these three operations, whether in Hegelian idealism or in its Marxian variant, merely perpetuated an intelligent confusion inherent in the system of natural law. The substitution of the belief that there is a determinate order of evolution or historical progress for the belief in rational self-evidence displaced an unverifiable idea with one still less verifiable. So far as there is any such thing as historical 'necessity,' it seems to belong to the calculation of probabilities, and in application this calculation is usually impossible and always highly uncertain. As for values, they appear to the author to be always the reaction of human preference to some state of social and physical fact; in the concrete they are too complicated to be generally described even with so loose a word as utility. Nevertheless the idea of economic causation was probably the most fertile suggestion added to social studies in the nineteenth century.

To write the whole history of Western political theory from the point of view of this sort of social relativism is probably a greater task than a careful scholar ought to have attempted. It implies a range of knowledge which the author is painfully aware that he does not possess. For, on the one hand, political theory has always been a part of philosophy and science, an application to politics of the relevant intellectual and critical apparatus which is at the moment available. And, on the other hand, it is a reflection upon morals, economics, government, religion, and law—whatever there may be in the historical and institutional situation that sets a problem to be solved. It is of the essence of the point of view here adopted that neither factor should be neglected. The intellectual apparatus is important, at least for political theory, only in so far as it is really applied to some state of the facts, and the institutional realities are important only so far as they evoke and control reflection. Ideally both should be conceived and presented by an historian with equal clearness; political theory in action ought to receive equal treatment with political theory in books. The demand thus made on the historian's scholarship is impossibly heavy.

In dealing with the large mass of literature that makes up the sources for a history of political theory the author has tried to avoid so far as possible the mere mention of men and books that for lack of space could not be described in their setting. The fact that a man existed or that a book was written is, in itself, no part of the history of political theory as it is here conceived. In many cases it has been necessary frankly to select a specimen to stand for a considerable group, omitting other possible representatives. After a selection has been made the preserving of reasonable proportions between the subjects included

presents the greatest difficulties. Especially as one approaches the present time the problem of knowing what to include and what to omit, and of deciding upon the relative importance of the items selected for inclusion, becomes nearly insoluble in view of the space at one's disposal. To be specific, the author is gravely in doubt whether the chapters following that on Hegel do not omit much that ought to have been included if a proportion consonant with that observed in the earlier chapters were to be maintained. If the author were to offer an excuse it would be that a friend, Professor Francis W. Coker, has recently done this task better than he in any case could have done it.

The author owes a heavy debt to the many scholars who have dealt, more adequately than he could do, with specific phases or limited parts of the subject.

G. H. S.

ITHACA, NEW YORK
April 10, 1937

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PART I

THE THEORY OF THE CITY-STATE

CHAPTER I

THE CITY-STATE

Most modern political ideals—such, for example, as justice, liberty, constitutional government, and respect for the law—or at least the definitions of them, began with the reflection of Greek thinkers upon the institutions of the city-state. But in the long history of political thought the meaning of such terms has been variously modified, and always that meaning has to be understood in the light of the institutions by which the ideals were to be realized and of the society in which those institutions did their work. The Greek city-state was so different from the political communities in which modern men live that it requires no small effort of the imagination to picture its social and political life. The Greek philosophers were thinking of political practices far different from any that have prevailed commonly in the modern world, and the whole climate of opinion in which their work was done was different. Their problems, though not without analogies in the present, were never identical with modern problems, and the ethical apparatus by which political life was evaluated and criticized varied widely from any that now prevails. In order to understand at all accurately what their theories meant it is necessary first to realize at least roughly what kind of institutions they had in view and what citizenship connoted, as a fact and as an ideal, to the public for whom they wrote. For this purpose the government of Athens is especially important, partly because it is the best-known, but chiefly because it was an object of special concern to the greatest of the Greek philosophers.

SOCIAL CLASSES

As compared with modern states the ancient city-state was exceedingly small both in area and in population. Thus the whole territory of Attica was only a little more than two-thirds the area of Rhode Island, and in population Athens was comparable with such a city as Denver or Rochester. The numbers are exceedingly uncertain, but a figure somewhat in excess of three hundred thousand would be approximately correct. Such an arrangement of a small territory dominated by a single city was typical of the city-state.

This population was divided into three main classes that were politically and legally distinct. At the bottom of the social scale were

the slaves, for slavery was a universal institution in the ancient world. Of all the inhabitants of Athens perhaps a third were slaves. Consequently as an institution slavery was as characteristic of the city-state economy as wage-earning is of the modern. It is true, of course, that the slave did not count politically in the city-state. In Greek political theory his existence was taken for granted, just as the feudal ranks were taken for granted in the Middle Ages or as the relation of employer and employee is taken for granted now. Sometimes his lot was deplored and sometimes the institution (though not its abuses) was defended. But the comparatively large number of slaves—and still more the exaggeration of their numbers—has given rise to a myth that is seriously misleading. This is the idea that the citizens of the city-state formed a leisured class and that its political philosophy was therefore the philosophy of a class exempt from gainful labour.

This is an almost complete illusion. The leisured class in Athens could hardly have been larger than it is in an American city of equal size, for the Greeks were not opulent and lived upon a very narrow economic margin. If they had more leisure than the moderns it was because they took it—their economic machine was not so tightly geared—and they paid for it with a lower standard of consumption. The simplicity and plainness of Greek living would be a heavy burden to the modern American. Certainly the overwhelming majority of Athenian citizens must have been tradesmen or artisans or farmers who lived by working at their trades. There was no other way for them to live. Consequently, as with most men in modern communities, their political activities had to take place in such time as they could spare from their private occupations. It is true that Aristotle deplored this fact and thought it would be desirable to have all manual work done by slaves, in order that citizens might have the leisure to devote themselves to politics. Whatever may be thought of the wisdom of this ideal, it is certain that Aristotle was not describing what existed, but was proposing a change for the improvement of politics. Greek political theory sometimes idealized a leisured class, and in aristocratic states the governing class might be a landed gentry, but it is quite false to imagine that in a city like Athens the citizens were typically men whose hands were unsoiled by labour.

The slaves being put aside, the second main group in a Greek city was composed of the resident foreigners, or metics. In a commercial city like Athens the number of such persons might be large and many of them would not be transients. But there was no form of legal naturalization, and residence extending over several generations would still leave a metic outside the citizen-body, unless, indeed, he were taken in by inadvertence or connivance. The metic like the slave had no part in the political life of the city, though he was a freeman and his exclusion implied no social discrimination against him.

Finally, there was the body of citizens or those who were members of the city and entitled to take part in its political life. This was a privilege attained by birth, for a Greek remained a citizen of the city to which his parents belonged. Moreover, what citizenship entitled a man to was *membership*; that is, some minimum share of political activity or participation in public business. This minimum might be no more than the privilege of attending town-meeting, which itself might be of greater or less importance according to the degree of democracy that prevailed, or it might include eligibility to a narrower or a wider range of offices. Thus Aristotle, obviously thinking of Athenian practice, considered that eligibility to jury-duty is the best criterion of citizenship. Whether a man were eligible to many offices or only a few would again depend upon the degree of democracy that prevailed in his city. But the point to be noted is that, for a Greek, citizenship always meant some such participation, much or little. The idea was, therefore, much more intimate and much less legal than the modern idea of citizenship. The modern notion of a citizen as a man to whom certain rights are legally guaranteed would have been better understood by the Roman than by the Greek, for the Latin term *ius* does partly imply this possession of private right. The Greek, however, thought of his citizenship not as a possession but as something shared, much like membership in a family. This fact had a profound influence upon Greek political philosophy. It meant that the problem as they conceived it was not to gain a man his rights, but to ensure him the place to which he was entitled. Somewhat differently stated, it meant that, in the eyes of Greek thinkers, the political problem was to discover what place each kind or class of men merited in a wholesome society so constituted that all the significant sorts of social work could go on.

POLITICAL INSTITUTIONS

The institutions by which this body of citizen-members undertook to transact its political business can be illustrated by taking Athens as the best-known type of the democratic constitution.[1] The whole body of male citizens formed the Assembly, or Ecclesia, a town-meeting which every Athenian was entitled to attend after he had reached the age of twenty years. The Assembly met regularly ten times in the year and in extraordinary sessions at the call of the Council. The acts of this town-meeting corresponded, as nearly as anything in the system

[1] The constitution of Cleisthenes, whose reforms were adopted in 507 B.C. Minor changes were made from time to time, largely in the direction of increasing the number of magistrates chosen by election and lot and also the number of paid services, both devices of popular government, but the reforms of Cleisthenes established the constitution of Athens as it was during the period of Athens' greatest power and as it remained. There was a brief oligarchic reaction at the close of the Peloponnesian War, but the old forms were restored in 403.

did, to modern enactments in which the whole public authority of the body-politic is embodied. This is not to say, however, that the formation of policies and the effective discussion of measures took place, or was intended to take place, in this body. Direct democracy conducted by the whole people assembled is rather a political myth than a form of government. Moreover, all forms of Greek government (except extra-legal dictatorship), whether aristocratic or democratic, included some sort of assembly of the people, even though its share in government might actually be small.

The interesting thing about Athenian government is therefore not the Assembly of the whole people, but the political means which had been designed to make the magistrates and officials responsible to the citizen-body and answerable to its control. The device by which this was effected was a species of representation, though it differed in important ways from modern ideas of representation. What was aimed at was the selection of a body sufficiently large to form a sort of cross-section or sample of the whole body of citizens, which was permitted in a given case or for a short term to act in the name of the people. The terms were short; there was usually a provision against re-election; and thus the way was open for other citizens to have a turn at the management of public affairs. In line with this policy the magistracies were held as a rule not by individuals but by boards of ten, one chosen from each of the tribes into which the citizens were divided. The magistrates, however, had for the most part little power. The two bodies which formed the keys to popular control of government in Athens were the Council of Five Hundred and the courts with their large popular juries.

The manner in which the members of these governing bodies were chosen explains the sense in which they could be said to represent the whole people. For purposes of local government the Athenians were divided into about a hundred demes, or, as they might be called, wards or parishes or townships. These demes were the units of local government. There was one respect, however, in which they were not comparable strictly to local units; membership in them was hereditary, and even though an Athenian moved from one locality to another, he remained a member of the same deme. Accordingly, though the deme was a locality, the system was not purely one of local representation. The demes had, however, some measure of local autonomy and certain local police-duties of rather trifling importance. They were, moreover, the door by which the Athenian entered into citizenship, for they kept the register of their members, and every Athenian boy was enrolled at the age of eighteen. But their really important function was the presentation of candidates to fill the various bodies by which the central government was carried on. The system was a combination of election and lot. The demes elected candidates, roughly in

proportion to their size, and the actual holders of office were chosen by lot from the panel thus formed by election. To the Greek understanding this mode of filling offices by lot was the distinctively democratic form of rule, since it equalized every one's chances to hold office.

There was, however, one important body of Athenian officials which remained outside this scheme of choice by lot and which retained a much larger measure of independence than the others. These were the ten generals who were chosen by direct election and were, moreover, eligible to repeated re-elections. The generals were, of course, in theory purely military officers, but especially in imperial days they actually exercised not only important powers in foreign parts of the Athenian Empire, but also very great influence over the decisions of the Council and the Assembly at home. The office therefore was not really a military post, but in certain cases a political office of the highest importance. It was as general that Pericles acted year after year as the leader of Athenian policy, and his position with reference to the Council and Assembly was much more like that of Prime Minister in a modern government than that of a mere commander of troops. But his power lay in the fact that he could carry the Assembly with him; a failure to do so would have disposed of him as effectivery as an adverse vote disposes of a responsible Minister.

As was said above, the really essential governing bodies at Athens were the Council of Five Hundred and the courts with their large popularly chosen juries. Some sort of council was a characteristic part of all forms of the Greek city-state, but in the aristocratic states, as at Sparta, the council was a senate composed of elders chosen for life and without responsibility to the assembly. Membership in such a council would normally be the prerogative of a well-born governing class and hence quite different from the popularly chosen Council at Athens. The Council of the Areopagus was the remnant of an aristocratic senate which had been shorn of its powers by the rising democracy. In substance the Council of Five Hundred was an executive and steering committee for the Assembly.

The actual work of government was really centred in this committee. But five hundred was still far too large for the transaction of business, and it was reduced to a working size by the favourite device of rotation in office. Each of the ten tribes into which the Athenians were divided furnished fifty of the members, and the fifty members from a single tribe were active for one-tenth of the yearly term of office. This committee of fifty, augmented by one councilman from each of the nine tribes not in office, was in actual control and transacted business in the name of the entire Council. A president was chosen by lot from the fifty for a single day, and no Athenian could hold this honour for more than one day in his entire life. The Council was charged with the very important duty of proposing measures for the consideration of the

general Assembly of the citizens, which acted only upon matters coming to it through the Council. At the time when the Athenian constitution was at its best it would appear that the Council rather than the Assembly was the body which effectively formulated measures. At a later date it seems to have confined itself rather to the duty of drafting measures to be debated in the Assembly. In addition to these legislative duties the Council was also the central executive body in the government. Foreign embassies had access to the people only through the Council. The magistrates were largely subject to its control. It could imprison citizens and even condemn them to death, acting itself as a court or committing offenders to one of the ordinary courts. It had entire control of finances, the management of public property, and taxation. The fleet and its arsenals were directly controlled by it, and a multitude of commissions and administrative bodies or servants were attached more or less closely to it.

The great powers of the Council, however, were always dependent upon the goodwill of the Assembly. It passed upon matters which the Council presented to it, enacting, amending, or rejecting them as it saw fit. A proposal originating in the Assembly might be referred to the Council, or the latter body might present a pro$_{1}$osal to the Assembly without recommendation. All major matters, such as declarations of war, the concluding of peace, the forming of alliances, the voting of direct taxes, or general legislative enactments, were expected to go before the Assembly for popular approval, but it was apparently not expected, at least in the best days of Athenian politics, that the Council should be a mere drafting body. At all events decrees were passed in the name of the Council *and* the people.

It was through the courts, however, that popular control both of magistrates and of the law itself was consummated. The Athenian courts were undoubtedly the keystone of the whole democratic system. They occupied a position not comparable to that held by the courts in any modern government. Their duty, like that of any other court, was, of course, to render judicial decisions in particular cases either civil or criminal; but in addition they had powers vastly beyond this, which to modern ideas were clearly of an executive or legislative rather than of a judicial nature.

The members of these courts, or jurymen, were nominated by the demes, a panel of six thousand being elected each year, and were then told off by lot to sit in particular courts and upon particular cases. Any Athenian citizen thirty years old might be chosen for this duty. The court was a very large body, scarcely ever less than 201, commonly as many as 501, and sometimes much larger. These citizens were indifferently judge and jury, for the Athenian court had none of the machinery that goes with a technically developed form of law. Parties in litigation were obliged to present their cases in person. The court

simply voted, first upon the question of guilt, and then, if the verdict had been guilty, upon the penalty to be assessed, after each party had proposed a punishment which he deemed just. A decision by a court was final, for there was no system of appeals. This was indeed perfectly logical, for it was the theory of the Athenian courts that the court acted and decided in the name of the whole people. The court was not merely a judicial organ; it was conceived to be literally the Athenian people for the purpose in hand. A decision in one court was therefore in no way binding upon any other court. In fact, a court was in some respects co-ordinate with the Assembly itself. Both the Assembly and the court were the people. Hence the courts were utilized to secure a popular control both over officials and over the law itself.

The control of the courts over magistrates was secured in three main ways. In the first place, there was a power of examination before a candidate could take office. An action might be brought on the ground that a given candidate was not a fit person to hold office and the court could disqualify him. This process made the choice of magistrates by lot less a matter of chance than it might at first appear to be. In the second place, an official could be made subject at the conclusion of his term of office to a review of all the acts performed by him, and this review also took place before a court. Finally, there was a special auditing of accounts and a review of the handling of public money for every magistrate at the end of his term. The Athenian magistrate, ineligible as he was to re-election and subject to examination before and after his term by a court composed of five hundred or more of his fellow-citizens chosen by lot, had little independence of action. In the case of the generals the fact that their re-election enabled them to escape the review no doubt largely explains why they were the most independent of Athenian officials.

The control of the courts by no means stopped with magistrates. They had a control over the law itself which might give them real legislative power and raise them to a position in particular cases co-ordinate with the Assembly itself. For the courts could try not only a man but a law. Thus a decision of the Council or of the Assembly might be attacked by a peculiar form of writ alleging that it was contrary to the constitution. Any citizen could bring such a complaint, and the operation of the act in question was then suspended until it was acted upon by a court. The offending law was tried exactly as if it were a person, and an adverse decision by the court quashed it. In practice there was apparently no limit to the ground of such an action; it might merely be alleged that the law in question was inexpedient. Again, it is obvious that the Athenians thought of the jury as identical, for the purposes in hand, with the whole people.

POLITICAL IDEALS

The popularly chosen Council and its responsibility to the Assembly, and the independent and popularly chosen juries, were the characteristic institutions of Athenian democracy. As in any system of government, however, there were, behind the institutions, certain conceptions of what the institutions ought to embody, ideals of a valuable political life to which the institutions ought to be instrumental. Such ideals are less easy to discover and less tangible to describe, but they are no less important than the institutions themselves for an understanding of political philosophy. Fortunately the historian Thucydides has stated, in a passage of incomparable brilliance, this meaning which democracy had for thoughtful Athenians. This is the famous Funeral Oration, appropriately attributed to Pericles, who was the leader of the democracy, and represented as having been delivered in honour of the soldiers who had fallen in the first year of the great war with Sparta.[1] Probably never in historical literature has there been a statement equally fine of a political ideal. The pride with which the Athenian contemplated his city, the love with which he cherished his share in her civic life, and the moral significance of Athenian democracy are written in every line.

The main purpose of Pericles' speech was evidently to awaken in his hearers' minds the consciousness of the city itself as their supremely valuable possession and as the highest interest to which they could devote themselves. The purpose of the address is a patriotic appeal and the occasion is a funeral, so that the speaker might be expected to dwell upon traditional pieties and ancestral greatness. In fact, Pericles has little to say of tradition or of the past. It is the present glory of a united and harmonious Athens upon which he dwells. What he asks of his hearers is to see Athens as she really is, to realize what she means in the lives of her citizens, as if she were a supremely beautiful and worthy mistress.

> I would have you day by day fix your eyes upon the greatness of Athens, until you become filled with the love of her; and when you are impressed by the spectacle of her glory, reflect that this empire has been acquired by men who knew their duty and had the courage to do it, who in the hour of conflict had the fear of dishonour always present to them, and who, if ever they failed in an enterprise, would not allow their virtues to be lost to their country, but freely gave their lives to her as the fairest offering which they could present at her feast.

Their citizenship is, then, the Athenians' highest glory. "In magnifying the city I have magnified them." For what treasure can the thoughtful man prefer to that? What possession has he which he can

[1] Thucydides, Bk. II, 35–46. The quotations are taken from Benjamin Jowett's translation, second edition (Oxford, 1900).

hold in higher esteem or for which he will risk and sacrifice more? Shall he prefer his property or his family? Of what use is property except to enable a man to enjoy that higher good which comes from having an active share in the city's life? And of what value is family, even though it be of ancient and honourable lineage, except as it gives one an entrance into that higher form of social relationship represented by civil life? Above all faction, above all lesser groups of any sort, stands the city, which gives to all of them their meaning and their value. Family and friends and property are to be enjoyed at their best only if they form elements in that supreme good which consists in having a place in the life and activities of the city itself.

When all due allowance is made for the rhetorical exaggeration natural to the occasion the fact remains that the Funeral Oration was expressing a perfectly genuine ideal of Greek political life. This life had a quality of intimacy which it is very difficult for the modern man to associate with politics. Modern states are relatively so large, so remote, so impersonal, that they cannot fill the place in modern life that the city filled in the life of a Greek. The Athenian's interests were less divided, fell less sharply into compartments unconnected with one another, and they were all centred in the city. His art was a civic art. His religion, in so far as it was not a family matter, was the religion of the city, and his religious festivals were civic celebrations. Even his means of livelihood were dependent upon the state far more frequently than is the case in modern life. For the Greek, therefore, the city was a life in common; its constitution, as Aristotle said, was a "mode of life" rather than a legal structure; and consequently the fundamental thought in all Greek political theory was the harmony of this common life. Little distinction was made between its various aspects. For the Greek the theory of the city was at once ethics, sociology, and economics, as well as politics in the narrower modern sense.

The pervasiveness of this common life and the value which the Athenians set upon it is apparent upon the face of their institutions. Rotation in office, the filling of offices by lot, and the enlargement of governing bodies even to unwieldiness were all designed to give more citizens a share in the government. The Athenian knew the arguments against all these devices as well as any one, but he was prepared to accept the drawbacks for the sake of the advantages as he conceived them. His government was a democracy, "for the administration is in the hands of the many and not of the few." In modern politics such an expression is likely to be taken not quite literally, unless it be understood of the rather colourless right to cast a ballot. Certainly the holding of office counts for little in the calculations of modern democrats other than those few for whom politics is a career. For the Athenian it might be a normal incident in the life of almost any citizen. On the strength of figures given by Aristotle in his *Constitution*

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of Athens it has been estimated that in any year as many as one citizen in six might have some share in the civil government, even though it might amount to no more than jury-service. And if he held no office he might still take part, regularly ten times each year, in the discussion of political questions at the general assembly of the citizens. The discussion, formal or informal, of public matters was one of the main delights and interests of his life.

Accordingly the proudest boast of Pericles is that Athens, better than any other state, has found the secret of enabling her citizens to combine the care of their private affairs with a share of public life.

> An Athenian citizen does not neglect the state because he takes care of his own household; and even those of us who are engaged in business have a very fair idea of politics. We alone regard a man who takes no interest in public affairs, not as a harmless, but as a useless character; and if few of us are originators, we are all sound judges of policy.

To have absorbed his entire time with his private business would have seemed to the Athenian of Pericles' time a monstrous perversion of values; Athenian manufacture, especially of pottery and arms, was indeed in its time the best in the Greek world, but even the artisan would have been revolted by a life which left no leisure for an interest in the common business, the affairs of the city.

With this desire that all should participate went necessarily the ideal that none should be excluded because of extraneous differences of rank or wealth.

> When a citizen is in any way distinguished, he is preferred to the public service, not as a matter of privilege, but as the reward of merit. Neither is poverty a bar, but a man may benefit his country whatever be the obscurity of his condition.

In other words, no man is born to office and no man buys office, but by an equal opportunity he is sifted down to the position to which his natural gifts entitle him.

Finally, this ideal of a common life in which all might actively share presupposed an optimistic estimate of the natural political capacity of the average man. On the negative side it assumed that severe training and intense specialization were not required in order to form an intelligent judgment of political and social questions. There is no clearer note in Pericles' speech than the pride which the democratic Athenian takes in his "happy versatility."

> We rely not upon management or trickery, but upon our own hearts and hands. And in the matter of education, whereas they [the Spartans] from early youth are always undergoing laborious exercises which are to make them brave, we live at ease, and yet are equally ready to face the perils which they face.

This is, of course, a fling at Sparta with its rigid military discipline,

but it is more than that. The spirit of the amateur, both for good and ill, is written large upon Athenian political practice. Athenian wits were sharp, and the Athenian was prepared to believe—to his cost—that sharpness of wit might be a substitute for expertness of knowledge and the skill of specialization. Nevertheless there was truth in the Athenian's boast that by sheer intellectual ability he could surpass all other nations—in art, in craftsmanship, in naval warfare, and in statesmanship.

In the Athenian conception, then, the city was a community in which its members were to live a harmonious common life, in which as many citizens as possible were to be permitted to take an active part, with no discrimination because of rank or wealth, and in which the capacities of its individual members found a natural and spontaneous and happy outlet. And in some considerable measure—probably more than in any other human community—the Athens of Pericles succeeded in realizing this ideal. Nevertheless it was an ideal and not a fact. Even at its best the democracy had its seamy side which had as much to do with the beginnings of political theory as its successes. The *Republic* of Plato might almost be described as a commentary upon the democratic notion of "happy versatility," a notion which seemed to Plato nothing less than the ineradicable defect of any democratic constitution. And, indeed, with the disastrous outcome of the Peloponnesian War before his eyes, the values might well appear more questionable to him than they had to Pericles. In Thucydides' *History*, too, there is a dreadful irony about the Funeral Oration, when it is placed against the story of Athenian defeat that followed.

On the wider issue of achieving a harmonious common life also it must be admitted that the city-state was only a qualified success. The very intimacy and pervasiveness of its life, which was responsible for much of the moral greatness of the ideal, led to defects which were the reverse of its virtues. In general the city-states were likely to be a prey to factional quarrels and party rivalries whose bitterness was as intense as only a rivalry between intimates can be. Thucydides draws a terrible picture of the march of revolution and faction through the cities of Greece as the war progressed.

> Reckless daring was held to be loyal courage; prudent delay was the excuse of a coward; moderation was the disguise of unmanly weakness; to know everything was to do nothing. Frantic energy was the true quality of a man. . . . The lover of violence was always trusted. . . . The tie of party was stronger than the tie of blood. . . . The seal of good faith was not divine law, but fellowship in crime.[1]

At a later date, after the war was over, Plato sadly said that, "Any city, however small, is in fact divided into two, one the city of the poor, the other of the rich."[2]

[1] Bk. III, 82.

[2] *Republic*, Bk. IV 422*e*.

It is precisely because the ideal of harmony was only partly or precariously realized that it forms so persistently a part of Greek political thought. Loyalty tended constantly to be paid to a particular form of government or to a party rather than to the city, and this too easily opened the way to sheer political egoism which was not even loyal to a party. In this respect Athens was certainly better than the average, and yet the career of Alcibiades illustrates both the dangers of faction and the unscrupulous selfishness which were possible in Athenian politics.

Though but precariously realized, this ideal of a harmonious common life in which it should be the chief joy of every citizen to have a part remains the guiding thought in Greek political theory. This more than anything else explains the unfamiliarity which a modern reader immediately feels when he first takes up the political writings of Plato and Aristotle. Our commonest political concepts are not there; in particular, the conception of individual citizens endowed with private rights and a state which, by means of the law, protects citizens in their rights and exacts from them the obligations required for this purpose. Our most familiar political thought contemplates some balance of these two opposed tendencies, enough power to make the state effective, but enough liberty to leave the citizen a free agent. The philosopher of the city-state envisaged no such opposition and no such balance. Right or justice means for him the constitution or the organization of a life common to citizens, and the purpose of law is to find for every man his place, his station, his function in the total life of the city. The citizen has rights, but they are not attributes of a private personality; they belong to his station. He has obligations, too, but they are not forced on him by the state; they flow from the need to realize his own potentialities. The Greek was happily free both from the illusion that he had an inherent right to do as he pleased and from the pretension that his duty was the "stern daughter of the voice of God."

Within the circle thus set by the conception of civic harmony and a life in common the Athenian ideal found a place for two fundamental political values, always closely connected in the Greek mind, which formed as it were the pillars of the system. These were freedom and respect for law. It is important to notice how Pericles unites the two almost in the same sentence.

> There is no exclusiveness in our public life, and in our private intercourse we are not suspicious of one another, nor angry with our neighbour if he does what he likes; we do not put on sour looks at him which, though harmless, are not pleasant. While we are thus unconstrained in our private intercourse, a spirit of reverence pervades our public acts; we are prevented from doing wrong by respect for the authorities and for the laws, having an especial regard to those which are ordained for the protection of the

> injured as well as to those unwritten laws which bring upon the transgressor of them the reprobation of the general sentiment.

The activities of the city are carried on with the voluntary co-operation of the citizens, and the main instrumentality of this co-operation lies in the free and full discussion of policy in all its aspects.

> The great impediment to action is, in our opinion, not discussion, but the want of that knowledge which is gained by discussion preparatory to action. For we have a peculiar power of thinking before we act and of acting too, whereas other men are courageous from ignorance but hesitate upon reflection.

It was just this belief in discussion as the best means to frame public measures and to carry them into effect—this faith that a wise measure or a good institution could bear the examination of many minds—that made the Athenian the creator of political philosophy. It was not that he despised custom, but he never believed that a customary code was binding merely because it was ancient. He preferred to see in custom the presumption of an underlying principle that would bear rational criticism and be the clearer and more intelligible for it. This problem of the inter-relation of custom and reason ran through all the theory of the city-state. Thus the scepticism which sees in right nothing but blind custom and which therefore sees in political institutions only a way of gaining advantages for all the beneficiaries of the system seemed to Plato the deadliest of all social poisons. But in this respect Plato stood for the native Greek faith that government rests in the last resort upon conviction and not on force, and that its institutions exist to convince and not to coerce. Government is no mystery reserved for the Zeus-born noble. The citizen's freedom depends upon the fact that he has a rational capacity to convince and to be convinced in free and untrammelled intercourse with his fellows. The Greek had, indeed, a somewhat naive belief that he alone of all men was gifted with such a rational faculty, and that the city-state alone of all governments gave free play to it. This was the ground for his somewhat supercilious attitude towards 'barbarians,' who, as Aristotle said, were slaves by nature.

Freedom thus conceived implies respect for law. The Athenian did not imagine himself to be wholly unrestrained, but he drew the sharpest distinction between the restraint which is merely subjection to another man's arbitrary will and that which recognized in the law a rule which has a right to be respected, and hence is in this sense self-imposed. There is one point upon which every Greek political thinker is agreed —namely, that tyranny is the worst of all governments. For tyranny means just the application of unlawful force; even though it be beneficent in its aims and results, it is still bad because it destroys self-government.

> No worse foe than the despot hath a state,
> Under whom, first, can be no common laws,
> But one rules, keeping in his private hands
> The law.[1]

In the free state the law and not the ruler is sovereign, and the law deserves the citizen's respect, even though in the particular case it injures him. Freedom and the rule of law are two supplementing aspects of good government, the secret, as the Greek believed, of the city-state and the prerogative of the Greek alone of all the peoples of the world.

This is the meaning of Pericles' proud boast that "Athens is the school of Hellas." The Athenian ideal might be summed up in a single phrase as the conception of free citizenship in a free state. The processes of government are the processes of impartial law which is binding because it is right. The citizen's freedom is his freedom to understand, to discuss, and to contribute, not according to his rank or his wealth, but according to his innate capacity and his merit. The end of the whole is to bring into being a life in common, for the individual the finest training-school of his natural powers, for the community the amenities of a civilized life with its treasures of material comfort, art, religion, and free intellectual development. In such a common life the supreme value for the individual lies just in his ability and his freedom to contribute significantly, to fill a place however humble in the common enterprise of civic life. It was the measure of the Athenian's pride in his city that he believed that here, for the first time in human history, the means for realizing this ideal had been approximately realized. It is the measure of his success that no later people has set before itself the ideal of civic freedom uninfluenced by his institutions and his philosophy.

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CHAPTER II

POLITICAL THOUGHT BEFORE PLATO

THE great age of Athenian public life fell in the third quarter of the fifth century B.C., while the great age of political philosophy came only after the downfall of Athens in her struggle with Sparta. Here, as in so many cases in history, reflection followed achievement, and principles were abstractly stated only after they had long been acted upon. The Athenian of the fifth century was not much given either to the reading or the writing of books, and, moreover, even if political treatises were written before the time of Plato, not much has been preserved. Nevertheless there are clear indications that much active thought and discussion were expended upon political problems during the fifth century, and also that many of the conceptions found later in Plato and Aristotle had already crystallized. The origin and development of these ideas cannot be properly traced, but the atmosphere of opinion must be suggested in which the more explicit political philosophy of the next century could evolve.

POPULAR POLITICAL DISCUSSION

That the Athenians of the fifth century were immersed in the discussion of politics need scarcely be said. Public concerns and the conduct of public affairs were their great topics of interest. The Athenian lived in an atmosphere of oral discussion and conversation which it is difficult for the modern man to imagine. It is certain that every sort of interesting political question was actively canvassed by the curious and inquiring minds of Athenian citizens. Indeed, the circumstances could hardly have been more favourable to certain sorts of political inquiry. The Greek was almost forced to think of what would now be called comparative government. Throughout the length and breadth of the Greek world he found a great variety of political institutions, all, indeed, of the city-state type, but still capable of very great differences. At the very least there was one contrast which every Athenian must have heard discussed from the time he was old enough to follow conversation at all, that between Athens and Sparta, the types of the progressive and the conservative state, or of the democratic and the aristocratic state. Then in the east there was always the terrible shadow of Persia which could never be long out of any Greek's consciousness. He hardly counted it,

indeed, as a genuine government, or at all events he counted it such a government as only the barbarian merited, but it formed the dark background upon which he projected his own better institutions. As his travels took him still farther afield—to Egypt, to the western part of the Mediterranean, to Carthage, to the tribes of the Asiatic hinterland—he found continually new material for comparison.

That the Greek of the fifth century had formed already a lively curiosity about the queer laws and institutions which filled his world is amply proved by the fund of anthropological lore embodied by Herodotus in his *History*. The strange customs and manners of foreign peoples form a regular part of his stock in trade. Behaviour which in one country is looked upon as expressing the greatest piety and goodness is regarded in another with indifference or perhaps even with loathing. Each man naturally prefers the customs of his own country, and though there may be little in these customs which is intrinsically superior to those of another country, the life of every man must be lived in accord with some standards. Human nature needs the piety that belongs to some sort of observance. Herodotus looked with a curious and a tolerant eye, but withal respectfully, upon the strange medley that he revealed. He considers it the most certain evidence of Cambyses' madness that he despised and insulted the religious rites of other nations besides the Persians. "It is, I think, rightly said in Pindar's poem that 'use and wont is lord of all.' "[1]

Even in this very unphilosophical book there is one rather startling bit of evidence of the lengths to which popular thought in Greece had gone in theorizing about government. This is the passage[2] in which seven Persians are represented as discussing the relative merits of monarchy, aristocracy, and democracy. Most of the stock arguments appear: The monarch tends to degenerate into a tyrant, while democracy makes all men equal before the law. But democracy readily becomes mob-rule, and a government by the best men is certainly preferable. And nothing can be better than the rule of the one best man. This is a genuine Greek touch which Herodotus certainly did not learn in Persia. This standard classification of the forms of governments, then, was a bit of popular theorizing long antedating anything known as political philosophy. When it occurs in Plato and Aristotle it is already a commonplace which need not be taken too seriously.

In the beginnings of political thought no doubt disinterested curiosity about foreign countries counted for something, but this was certainly not the main motive. The essential condition was the rapidity with which Athenian government itself had changed and the tenseness of the struggles by which the changes had come about. At no date within the historical era had there been a time when Athenian life—or, indeed, Greek life—had been mainly regulated by unquestioned custom.

[1] Herodotus, Bk. III, 38.

[2] Bk. III, 80–82.

Sparta, indeed, could pose as a marvel of political stability, but the Athenian had perforce to take pride in progress, since not much could be said for the antiquity of his institutions. The final triumph of democracy was not much older than the political career of Pericles; the constitution itself went back only to the last years of the sixth century; and the beginning of the democracy, counting from the establishment of popular control over the courts by Solon, was less than a century older. Moreover, from Solon on the general issues of Athenian domestic politics had been the same. The underlying causes were economic, and the issue was between aristocracy, dominated by the old and well-born families whose property was in land, and democracy, dominated by the interests of foreign trade and aiming to develop Athenian power upon the sea. Already Solon could boast that the purpose of his legislation was to see fair play between the rich and the poor, and this difference of interest was still for Plato the fundamental cause of disharmony in Greek government. Athenian history, and, indeed, the history of the Greek cities generally, had been for at least two centuries the arena of active party-struggle and the scene of rapid constitutional change.

Only occasionally is it possible to catch a glimpse that enables one to guess how intense the discussion of political questions must have been that accompanied these struggles. In particular, the triumph of the democracy at Athens was the occasion of at least one astonishing bit of political description which probably did not stand alone and which serves to show how well the underlying economic causes of the political changes were understood. This is the little essay on the *Constitution of Athens*, written by some disgruntled aristocrat and formerly attributed (falsely) to Xenophon.[1] The author sees in the Athenian constitution at once a perfect instrument of democracy and a thoroughly perverted form of government. He sees also that the roots of democratic power are in overseas commerce and in the consequent importance of the navy which, under ancient conditions, was the typically democratic branch of the military system, just as the heavy-armed infantry was the typically aristocratic branch. Democracy is a device for exploiting the rich and putting money into the pockets of the poor. The popular courts he regards as merely a clever way of distributing pay to the six thousand jurymen and of compelling Athens' allies to spend their money in Athens while they wait to get their judicial business transacted. Like Plato later, he complains that in a democracy one cannot even tell a slave when he jostles one in the street. It is obvious that Plato's satirical picture of the democratic state in Book VIII of the *Republic* was no new theme.

[1] Translated by H. G. Dakyns in *Xenophon's Works*, Vol. II; also by F. Brooks in *An Athenian Critic of Athenian Democracy* (London, 1912). The probable date is about 425 B.C.

There is other evidence also that the Athenian public was no stranger to the discussion of the most radical programmes of social change. Thus Aristophanes in his *Ecclesiazusae*, which was performed about 390, was able to make a comedy out of the idea of women's rights and the abolition of marriage, which has strongly suggested a relation to the communism put forward seriously by Plato at about the same time. Women are to oust men from politics; marriage is to be discarded, children are to be kept in ignorance of their true parents and are to be all equally the sons of their elders; labour is to be performed only by slaves; and gambling, theft, and lawsuits are to be abolished. The relation of all this to the *Republic* is obscure, since it is not known whether Aristophanes or Plato published first.[1] But this is not the really interesting point. Aristophanes seems to be lampooning not a speculative philosophy, but the utopian ideas of a radical democracy. And since the primary requirement of comedy is that it should go over the footlights, his audience must have known what he was talking about. It is an obvious inference that, early in the fourth century at least, an Athenian audience found nothing incomprehensible in a thoroughly subversive criticism of their political and social system. Again Plato was not an innovator; he was merely trying to take the social position of women seriously, a serious question then as now in spite of the hare-brained treatment it may receive.

ORDER IN NATURE AND SOCIETY

It is clear, then, that active thought and discussion of political and social questions preceded explicit political theory and that isolated political ideas, of more or less importance in themselves, were matters of common knowledge before Plato tried to incorporate them in a well-rounded philosophy. But there were current also certain general conceptions, not exclusively political in their nature, but forming a kind of intellectual point of view, within which political thought developed and which for the first time it made explicit. Here too the conceptions were present and had been expressed before they were abstractly stated as philosophical principles. Such assumptions are elusive but important, for they largely determine what sort of explanations are felt to be intellectually satisfying, and therefore the direction that later theories will try to take.

As was said in the preceding chapter, the fundamental thought in the Greek idea of the state was the harmony of a life shared in common by all its members. Solon commended his legislation as producing a harmony or a balance between the rich and the poor in which each party

[1] Various hypotheses are discussed by James Adam in his edition of the *Republic*, Vol. I, pp. 345 ff. Communism of women might be sufficiently familiar to readers of Herodotus. See Bk. IV, 104, 180. See also Euripides, Fr. 655 (Dindorf).

received its just due.[1] The part which ideas of harmony and proportion played in Greek conceptions both of beauty and of morals has been too often emphasized to need repeating. These ideas appeared at the very beginning of Greek philosophy, when Anaximander tried to picture a system of opposite properties (like heat and cold, for instance) which are 'divided off' from an underlying neutral substance. Harmony or proportion or, if one prefers, 'justice' is an ultimate principle in all the earliest attempts at a theory of the physical world. "The sun will not overstep his measures," said Heraclitus; "if he does the Erinyes, the handmaids of Justice, will find him out." The Pythagorean philosophy in particular regarded harmony or proportion as a basic principle in music, in medicine, in physics and in politics. In a figure of speech that still persists in English, justice is described as a 'square' number. This regard for measure or portion as an ethical quality is registered in the famous proverb, "Nothing too much." The same ethical idea in a literary form appears in Euripides' *Phoenician Maidens* when Jocasta urges her son to moderation, begging him to honour

> Equality, which knitteth friends to friends,
> Cities to cities, allies unto allies.
> Man's law of nature is equality.
>
> Measures for men equality ordained
> Meting of weights and number she assigned.[2]

At the start, then, the fundamental idea of harmony or proportionality was applied indifferently as a physical and as an ethical principle and was conceived indifferently as a property of nature or as a reasonable property of human nature. The first development of the principle, however, took place in natural philosophy, and this development reacted in turn upon its later use in ethical and political thought. In physics measure or proportion came to have a definite and somewhat technical significance. It meant that the details or the particular events and objects that made up the physical world were to be explained on the hypothesis that they were variations or modifications of an underlying substance which in essence remained the same. The contrast here is between fleeting and ever-changing particulars and an unchangeable 'nature' whose properties and laws are eternal. This conception as a physical principle culminated in the formulation (late in the fifth century) of the atomic theory, according to which the unchanging atoms, by various combinations, produce all the variety of objects that the world holds.

The interest in physical nature which produced this brilliant first approximation to a scientific point of view lasted right through the

[1] The poem is quoted by Ernest Barker, *Greek Political Theory* (1925), pp. 43 f.
[2] Ll. 536–542 (Way's trans.).

fifth century, but at about the middle of that century a change of interest began to make its appearance. This was a swing in the direction of humanistic studies, such as grammar, music, the arts of speech and writing, and ultimately psychology, ethics, and politics. The reasons for this change, which came to have its chief centre at Athens, were in the first place a growth of wealth, an increasing urbanity of life, and the feeling that a higher level of education was needed, especially in those arts, like public speaking, which had a direct relation to a successful career in a democratic government. The instruments by which the change was initiated were those itinerant teachers known as Sophists, who made their living—sometimes a very opulent living—by offering instruction to such as were able to pay for it. But the force by which the change of interest was consummated was the tremendous personality of Socrates, supplemented by the incomparable representation of that personality in the Dialogues of Plato. This change amounted in its results to an intellectual revolution, for it turned philosophy definitely away from physical nature and towards humanistic studies—psychology, logic, ethics, politics, and religion. Even where the study of the physical world persisted, as with Aristotle, the explanatory principles were drawn largely from the observation of human relationships. Never again, from the death of Socrates down to the seventeenth century, was the study of external nature for its own sake, irrespective of its relation to human affairs and interests, a matter of primary concern to the great mass of thinkers.

So far as the Sophists were concerned, they had no philosophy; they taught what well-to-do students were willing to pay for. But none the less some of them at least stood for a new point of view as compared with the hitherto prevailing interest of philosophy in the discovery of a permanent substratum for physical change. On its positive side this new point of view was simply humanism—the twisting of knowledge towards man as its centre. On the negative side it implied a kind of scepticism towards the older ideal of a detached knowledge of the physical world. This is the most plausible understanding of Protagoras' famous saying that "Man is the measure of all things, of what is that it is and of what is not that it is not." In other words, knowledge is the creation of the senses and other human faculties and so is a strictly human enterprise. Nothing that Plato says about Protagoras justifies the notion that he meant really to teach that anything is true which anyone chooses to believe, though Plato himself thought that this was what he ought to mean. This would be, indeed, a suicidal doctrine for a professional teacher. What Protagoras presumably meant is that "the proper study of mankind is man."

If, however, it was really the object of the new humanism to set entirely aside the ways of thinking followed by the older physical philosophy it failed utterly. What it succeeded in doing was to give a

new interest and a new direction. The earlier philosophers had gradually come to conceive of physical explanation as the discovery of simple and unchanging realities to the modification of which they might attribute the changes that everywhere appear upon the face of concrete things. But the Greeks of the fifth century had become familiar—through their contacts with foreign peoples and through rapid changes of legislation in their own states—with the variety and the flux of human custom. What more natural, then, than that they should find in custom and convention the analogue of fleeting appearances and should seek again for a 'nature' or a permanent principle by which the appearances could be reduced to regularity? The substance of the physical philosophers consequently reappeared as a 'law of nature,' eternal amid the endless qualifications and modifications of human circumstance. If only such a permanent law could be found human life might be brought to a degree of reasonableness. Thus it happened that Greek political and ethical philosophy continued along the ancient line already struck out by the philosophy of nature—the search for permanence amid change and for unity amid the manifold.

The question remained, however, as to what form this permanent element in human life should take. What really is the unchanging core of human nature which all men have in common, whatever may be the veneer of 'second nature' which habit and custom have laid over the surface? What are the permanent principles of human relationship which remain after due allowance has been made for all the curious forms in which conventionality has clothed it? Obviously the mere presumption that man has a nature and that some forms of relationship are right and proper in no way settles what the principle shall be. Moreover, what will be the consequence of finding it? How will the customs and the laws of one's own nation look when compared with the standard? Will it enforce the substantial wisdom and reasonableness of the traditional pieties or will it be subversive and destructive? If men discover how to be 'natural,' will they still be faithful to their families and loyal to their states? Thus was thrown into the cauldron of political philosophy that most difficult and ambiguous of all conceptions, the natural, as the solvent for the complications, psychological and ethical, which actual human behaviour presents. Many solutions were offered, depending on what was conceived to be natural. Except for the sceptics, who finally declared in utter weariness that one thing is as natural as another and that use and wont are literally "lord of all," every one agreed that something is natural. That is to say, some law does exist which, if understood, would tell why men behave as they do and why they think some ways of doing are honourable and good, others base and evil.

NATURE AND CONVENTION

There is ample evidence that this great discussion about nature *versus* convention was spread wide among the Athenians of the fifth century. It might, of course, as frequently it has done since, form the defence of the rebel, in the name of a higher law, against the standing conventions and the existing laws of society. The classic instance of this theme in Greek literature is the *Antigone* of Sophocles, perhaps the first time that an artist exploited the conflict between a duty to human law and a duty to the law of God. Thus when Antigone is taxed with having broken the law by performing the funeral rites of her brother she replies to Creon:

> Yea, for these laws were not ordained of Zeus,
> And she who sits enthroned with gods below,
> Justice, enacted not these human laws.
> Nor did I deem that thou, a mortal man,
> Could'st by a breath annul and override
> The immutable unwritten laws of Heaven.
> They were not born to-day nor yesterday;
> They die not; and none knoweth whence they sprang.[1]

This identification of nature with the law of God and the contrast of convention with the truly right was destined to become almost a formula for the criticism of abuses, a rôle in which the law of nature has appeared again and again in the later history of political thought. In this rôle the contrast occurs also in Euripides, who uses it to deny the validity of social distinctions based on birth, even in that critical case for Greek society, the slave:

> There is but one thing bringeth shame to slaves,
> The name: in all else ne'er a slave is worse
> Than free men, so he bear an upright soul.[2]

And, again,

> The honest man is Nature's nobleman.[3]

The critical Athenian of the fifth century was quite aware that his society had its seamy side, and the critic was prepared to appeal to natural right and justice as against the adventitious distinctions of convention.

On the other hand, it is by no means necessary that nature should be conceived as setting a rule of ideal justice and right. Justice may itself be thought of as a convention having no other basis than the law of the state itself, and nature may figure as, in any usual sense, non-moral. Such a view is associated with the later Sophists who apparently

[1] Ll. 450–457 (F. Storr's trans.). A passage in Lysias (*Against Andocides*, 10) suggests that the idea came from a speech by Pericles.
[2] *Ion*, ll. 854–56 (Way's trans.). [3] Fr. 345 (Dindorf); trans. by E. Barker.

found it profitable to shock conservative sensibilities by denying that slavery and nobility of birth are 'natural.' Thus the orator Alcidamas is credited with saying, "God made all men free; nature has made no man a slave." Most shocking of all, the Sophist Antiphon denied that there was 'naturally' any difference between a Greek and a barbarian. The end of the fifth century was a time when the dearest prejudices of the fathers were being dissected by and for a not-too-reverent younger generation.

Fortunately something is known of the political ideas of this Sophist Antiphon since a small fragment remains of his book *On Truth*.[1] He asserted flatly that all law is merely conventional and hence contrary to nature. The most advantageous way to live is to hold the law in respect before witnesses, but when one is not observed to "follow nature," which means to consult one's own advantage. The evil of breaking the law is in being seen and rests only "on opinion," but the bad consequences of going against nature are inevitable. Most of what is just according to law is against nature, and men who are not self-assertive usually lose more than they gain. Legal justice is of no use to those who follow it; it does not prevent injury or correct the injury afterwards. For Antiphon 'nature' is simply egoism or self-interest. But obviously he was setting up self-interest itself as a moral principle in opposition to what is called moral. The man who followed nature would always do the best he could for himself.

These fragments show clearly that the radical speculation about justice with which Plato begins the *Republic* were not the inventions of his own imagination. The argument of Thrasymachus that justice is only "the interest of the stronger," since in every state the ruling class makes those laws which it deems most conducive to its own advantage, is quite in the same spirit. Nature is not a rule of right but a rule of strength. A similar point more elaborated is made by Callicles in the *Gorgias*, when he argues that natural justice is the right of the strong man and that legal justice is merely the barrier which the multitude of weaklings puts up to save itself. "If there were a man who had sufficient force . . . he would trample under foot all our formulas, and spells, and charms, and all our laws which are against nature."[2] In the same vein was the famous speech of the Athenian ambassadors to Melos in Thucydides: "Of the gods we believe, and of men we know, that by a necessary law of their own nature they rule wherever they can."[3] It seems quite clear that Thucydides meant this speech to express the spirit of Athens' policy towards her allies.

Of course, the theory which identifies nature with egoism need not

[1] *Oxyrhinchus Papyri*, No. 1364, Vol. XI, pp. 92 ff. Also in Ernest Barker, *Greek Political Theory, Plato and his Predecessors* (1925), pp. 83 ff. The Sophist Antiphon is not to be confused with the Antiphon who led the oligarchical revolt at Athens in 411, though he was a contemporary.

[2] 484*a* (Jowett's trans.). [3] Bk. V, 105.

carry quite such anti-social implications as it seems to have in Antiphon or as Plato gives it in speeches of Callicles. Glaucon in Book II of the *Republic* develops it more moderately as a kind of social contract, by which men agree together not to do injuries, in order that they may escape injury at the hands of their fellows. The rule would still be egoism, but enlightened self-interest might be compatible with law and justice, as the most feasible way of living together. This view, though not an invitation to lawlessness, is still not compatible with the idea that the city is a life in common. This cool way of holding a fellow-citizen at arm's length until one is sure he can get as much as he gives is not in the spirit of a 'community.' Accordingly Aristotle argues against it in the *Politics*,[1] where he attributes it to the Sophist Lycophron. Since Lycophron was a Sophist of the second generation, a pupil of Gorgias, it is possible that a sort of contract-theory—a utilitarian development of the principle of self-interest—existed early in the fourth century. At a later date this kind of political philosophy reappeared in the Epicureans.

Before the close of the fifth century, then, the contrast of nature and convention had begun to develop in two main directions. The one conceived nature as a law of justice and right inherent in human beings and in the world. This view necessarily leaned to the assumption that the order in the world is intelligent and beneficent; it could be critical of abuses, but it was essentially moralist and in the last resort religious. The other conceived nature non-morally, and as manifested in human beings it was self-assertion or egoism, the desire for pleasure or for power. This view might be developed as a kind of Nietzschean doctrine of self-expression, or in its more moderate forms it might become a kind of utilitarianism; the extreme forms could become theories of a definitely anti-social complexion. Already in the fifth century, therefore, there were ideas, not as yet systematic or abstract, which contain suggestions of most of the philosophical systems which were produced in the fourth century. Perhaps it needed only that Athens should fall upon evil days, as she did at the close of the Peloponnesian War, to make her people contemplative rather than active, and to make her a "school for Hellas" in a sense of which Thucydides never dreamed.

SOCRATES

The personal agency by which suggestive ideas were turned into explicit philosophy was Socrates, and, curiously enough, all the possibilities were equally indebted to him. The profoundly exciting quality of his personality influenced men of the most different character and induced conclusions which were logically quite incompatible though obviously all derivative from Socrates. Thus Antisthenes could find

[1] 1280*b*, 12.

the secret of his personality in his self-command and could enlarge this into an ethics of misanthropy, while Aristippus could see the secret of the same personality in a boundless power to enjoy and could enlarge this into an ethics of pleasure—two quite different versions of Callicles' strong man who could trample under foot the weakness of sociability. For the time being these philosophies seemed of minor importance, eclipsed as they were by the splendour of Plato and Aristotle, but in the event each set up its ideal of the philosopher, and that ideal, in both cases, was Socrates. Nevertheless it seems certain that more of Socrates' personality and a juster conception of his ideas must have gone into the teaching of his greatest pupil, Plato. But in all of Socrates' pupils was consummated the humanistic reaction which the Sophists began. The great interest of his mature years at least was ethics, in short, the puzzling question about the multitude of local and changeable conventions and the true and abiding right.

Unlike the Sophists, however, he carried into his humanism the rational tradition of the older physical philosophy. This is the meaning of the doctrine most characteristically imputed to him, the belief that virtue is knowledge and so can be learned and taught, and also of the method which Aristotle attributes to him, the pursuit of precise definition. For given these two, the discovery of a valid general rule of action is not impossible, and imparting it by means of education is not impracticable. Or to state it in somewhat different words, if ethical concepts can be defined, a scientific application of them in specific cases is possible, and this science may then be used to bring about and maintain a society of demonstrable excellence. It is this vision of a rational, demonstrable science of politics, which Plato pursued throughout his life.

What exactly were Socrates' conclusions about politics is not known. But in general the implications of identifying virtue with knowledge are too clear to be missed. Socrates must have been an outspoken critic of the Athenian democracy, with its presumption that any man can fill any office. This is broadly suggested in the *Apology* and practically stated by Xenophon in the *Memorabilia*;[1] and in any case Socrates' trial and conviction are a little hard to understand unless there was 'politics' somewhere behind it. It may very well be, then, that some considerable measure of the political principles developed in the *Republic* really belonged to Socrates and were learned directly from him by Plato. However this may be, the intellectualist cast of the *Republic*, the inclination to find salvation in an adequately educated ruler, is certainly an elaboration of Socrates' certainty that virtue, political virtue not excluded, is knowledge.

[1] Bk. I, ch. ii, 9.

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CHAPTER III

PLATO: THE "REPUBLIC"

THE imperial ambitions of Athens perished with her defeat in the Peloponnesian War, but though her rôle was changed, her influence upon Greece, and ultimately upon the whole of the ancient world, was by no means diminished. After the loss of her empire she became more and more the educational centre of the Mediterranean world, a position which she retained even after her political independence had vanished and, indeed, far down into the Christian Era. Her schools of philosophy and science and rhetoric were the first great institutions in Europe devoted to higher education and to the research which necessarily accompanies advanced instruction, and to them came students from Rome and all parts of the ancient world. Plato's Academy was the first of the philosophical schools, though Isocrates, who taught especially rhetoric and oratory, probably opened his school a few years earlier. Aristotle's school at the Lyceum was opened some fifty years later, and the two other great schools, the Epicurean and the Stoic, began some thirty years after Aristotle.

Those who have mastered the fine spontaneity, both of life and of art, in the Periclean Age, can hardly avoid looking upon this academic specialization of Athenian genius as a decline. Probably it is true that the Greeks would not have turned to philosophy, at least in the manner they did, had the life of Athens remained as happy and as prosperous as it seemed to be when Pericles' Funeral Oration struck its dominant note. And yet no one can doubt that the teaching of the Athenian Schools played as large a part in European civilization as the art of the fifth century. For these Schools mark the beginning of European philosophy, especially in its relations with politics and the other social studies. In this field the writings of Plato and Aristotle were the first great pioneering operations of the European intellect. At the start they have only rudimentary beginnings and nothing that can properly be called a body of sciences, distinguished and classified in the way that now seems obvious. The subjects and their interrelations were in process of creation. But by the time the *corpus* of Aristotelian writings was completed in 323, the general outline of knowledge—into philosophy, natural science, the sciences of human conduct, and the criticism of art—was fixed in a form that is recognizable for any later age of European thought. Certainly no scholar can afford to belittle the

advancing specialization and the higher standard of professional accuracy which came with the Schools, even though it brought something academic and remote from civic activity.

THE NEED FOR POLITICAL SCIENCE

Plato was born about 427 B.C. of an eminent Athenian family. Many commentators have attributed his critical attitude towards democracy to his aristocratic birth, and it is a fact that one of his relatives was prominently connected with the oligarchic revolt of 404. But the fact can be perfectly well explained otherwise; his distrust of democracy was no greater than Aristotle's, who was not noble by birth nor even Athenian. The outstanding fact of Plato's intellectual development was his association as a young man with Socrates, and from Socrates he derived what was always the controlling thought of his political philosophy—the idea that virtue is knowledge. Otherwise stated, this meant the belief that there is objectively a good life, both for individuals and for states, which may be made the object of study, which may be defined by methodical intellectual processes, and which may therefore be intelligently pursued. This in itself explains why Plato must in some sense be an aristocrat, since the standard of scholarly attainment can never be left to numbers or popular opinion. Coming to manhood at the conclusion of the Peloponnesian War, he could hardly be expected to share Pericles' enthusiasm for the "happy versatility" of democratic life. His earliest thought on politics, that recorded in the *Republic*, fell just at the time when an Athenian was most likely to be impressed by the discipline of Sparta and before the hollowness of that discipline was made evident by the disastrous history of the Spartan Empire.

In the autobiography attached to the Seventh Letter[1] Plato tells how, as a young man, he had hoped for a political career and had even expected that the aristocratic revolt of the Thirty (404 B.C.) would bring substantial reforms in which he might bear a part. But experience with oligarchy soon made the democracy seem like a golden age, though forthwith the restored democracy proved its unfitness by the execution of Socrates.

> The result was that I, who had at first been full of eagerness for a public career, as I gazed upon the whirlpool of public life and saw the incessant movement of shifting currents, at last felt dizzy . . . and finally saw clearly in regard to all states now existing that without exception their system of government is bad. Their constitutions are almost beyond redemption except through some miraculous plan accompanied by good luck. Hence I

[1] The account of Plato's adventure in Sicily presumes the historical reliability, if not the actual authenticity, of Letters III, VII, and VIII. For this there is now ample authority.

> was forced to say in praise of the correct philosophy that it affords a vantage-point from which we can discern in all cases what is just for communities and for individuals; and that accordingly the human race will not see better days until either the stock of those who rightly and genuinely follow philosophy acquire political authority, or else the class who have political control be led by some dispensation of providence to become real philosophers.[1]

It is exceedingly tempting to see in this passage an important reason for the founding of Plato's School, though rather curiously the School is not mentioned in the Letter. The date must have been within a few years after the conclusion of his rather extensive travels and his return to Athens in 388. Doubtless the Academy was not founded exclusively for any single purpose, and therefore it would be an exaggeration to say that Plato intended to build an institution for the scientific study of politics and the training of statesmen. Specialization had not yet reached this point, and Plato hardly thought of the need for the philosopher in politics as a need for men trained *ad hoc* in the professions of administration and legislation. He thought of it rather as a need for men in whom an adequate intellectual training had sharpened the perception of the good life, and who were therefore prepared to discriminate between true and false goods and between adequate and inadequate means of attaining the true good. The problem was an outgrowth of the distinction between nature and convention which had been before the minds of reflective Greeks during the second half of the fifth century. It was, therefore, in Plato's conception, an important part of the general problem of discriminating true knowledge from appearance, opinion, and downright illusion. To it no branch of advanced study, such for example as logic or mathematics, was irrelevant. At the same time it would be hard to believe that Plato, convinced as he was that such knowledge and its acquisition by rulers was the only salvation for states, did not hope and expect that the Academy would disseminate true knowledge and philosophy, not spurious arts such as rhetoric. Certainly he believed later that statesmanship is the supreme or 'kingly' science.

In 367 and 361 Plato made his famous journeys to Syracuse to aid his friend Dion in the education and guidance of the young king, Dionysius, in whose accession he saw what he hoped was the auspicious occasion for a radical political reform—a youthful ruler with unlimited power and a willingness to profit by the combined advice of a scholar and of an experienced statesman. The story is told with great vividness in the Seventh Letter. Plato soon found that he had been wholly misled by the report of Dionysius' willingness to take advice and to apply himself either to study or to business. The project was a com-

[1] Letter VII, 325*d*–326*b*; L. A. Post's trans. Plato was writing in 353 B.C. The last sentence echoes the famous passage in the *Republic* (473*d*) about philosophers becoming kings.

plete failure, and yet it does not appear that there was anything essentially visionary about Plato's purposes. The advice contained in his letters to Dion's followers is sound and moderate, and it seems clear that Dion's plans were wrecked by his own failure to meet the Syracusans with a conciliatory policy. Some parts of Plato's Seventh Letter imply that he perceived the great importance for the whole Greek world of a strong Greek power in Sicily to offset the Carthaginians,[1] which was certainly a statesman-like project, and if he believed that an adequate power was impossible without monarchy, this was a conclusion which the Hellenization of the East by Alexander did much to justify. So far as the Sicilian adventure concerned Plato personally, he manifestly felt that no serious scholar who, for a generation, had been preaching the doctrine that politics required philosophy could refuse the support which Dion asked.

> I feared to see myself at last altogether nothing but words, so to speak—a man who would never willingly lay hand to any concrete task.[2]

Matters more or less connected with political philosophy are discussed in many of Plato's Dialogues, but there are three which deal mainly with the subject, and from these his theories must be mainly gathered. These are the *Republic*, the *Statesman*, and the *Laws*. The *Republic* was written in Plato's mature but comparative early manhood, probably within a decade of the opening of his School. Though it was certainly intended to be a unit and has so impressed its best critics, its composition may well have extended over several years, and there is good stylistic evidence that the discussion of justice in Book I is relatively early. The *Laws*, on the other hand, was the work of Plato's old age, and according to the tradition he was still at work on it when he died in 347. Thirty years (or possibly even more) elapsed, therefore, between the writing of the *Republic* and the writing of the *Laws*. It is plausible to see in the former work the enthusiasm of Plato's first maturity, of the time which saw the founding of the School, and in the latter the disillusionment which came with age, perhaps accentuated by the failure of his venture in Syracuse. The *Statesman* was written between the other two dialogues, but probably nearer the *Laws* than the *Republic*.

VIRTUE IS KNOWLEDGE

The *Republic* is a book which defies classification. It fits into none of the categories either of modern social studies or of modern science. In it practically every side of Plato's philosophy is touched upon or developed, and its range of subject-matter is such that it may be said to deal with the whole of human life. It has to do with the good man and the good life, which for Plato connoted life in a good state, and

[1] 332*e*–333*a*.

[2] Letter VII, 328*c*.

with the means for knowing what these are and for attaining them. And to a problem so general no side of individual or social activity is alien. Hence the *Republic* is not a treatise of any sort, nor does it belong to politics, or ethics, or economics, or psychology, though it includes all these and more, for art and education and philosophy are not excluded. For this breadth of subject-matter, which is a little disconcerting to an academically trained reader, several facts account. The mere literary mechanics of the dialogue-form which Plato used permitted an inclusiveness and a freedom of arrangement which a treatise could not tolerate. Moreover, when Plato wrote, the various 'sciences' mentioned above did not yet have the distinctness that was later somewhat artificially assigned to them. But more important than either literary or scientific technique is the fact to which reference has already been made, that in the city-state life itself was not classified and subdivided so much as it now is. Since all of a man's activities were pretty intimately connected with his citizenship, since his religion was the religion of the state, and his art very largely a civic art, there could be no very sharp separation of these questions. The good man must be a good citizen; a good man could hardly exist except in a good state; and it would be idle to discuss what was good for the man without considering also what was good for the city. For this reason an interweaving of psychological and social questions, of ethical and political considerations, was intrinsic to what Plato was trying to do.

The richness and variety of the problems and subject-matter that figure in the *Republic* did not prevent the political theory contained in the work from being highly unified and rather simple in its logical structure. The main positions developed, and those most characteristic of Plato may be reduced to a few propositions, and all these propositions were not only dominated by a single point of view but were deduced pretty rigorously by a process of abstract reasoning which was not, indeed, divorced from the observation of actual institutions but did not profess to depend upon it. To this statement the classification of forms of government in Books VIII and IX is in some degree an exception, but the discussion of actual states was introduced to point the contrast with the ideal state, and may therefore be neglected in considering the central argument of the *Republic*. Aside from this the theory of the state is developed in a closely concatenated line of thought which is both unified and simple. Indeed, it is necessary to insist that this theory is far too much dominated by a single idea and far too simple to do justice to Plato's subject, the political life of the city-state. This explains why he felt obliged to formulate a second theory—without, however, admitting the unsoundness of the first—and also why the greatest of his students, Aristotle, while accepting some of the most general conclusions of the *Republic*, stood much closer on the whole to the form of political philosophy developed in the *Statesman* and the

Laws than to the ideal state of the *Republic*. The over-simplification of the political theory contained in the earlier work made it, except in respect of very general principles, an episode in the development of the subject.

The fundamental idea of the *Republic* came to Plato in the form of his master's doctrine that virtue is knowledge. His own unhappy political experience reinforced the idea and crystallized it in the founding of the Academy to inculcate the spirit of true knowledge as the foundation for a philosophic statecraft. But the proposition that virtue is knowledge implies that there is an objective good to be known, and that it can, in fact, be known by rational or logical investigation rather than by intuition, guesswork, or luck. The good is objectively real, whatever anybody thinks about it, and it ought to be realized not because men want it but because it is good. In other words, will comes into the matter only secondarily; what men want depends upon how much they see of the good, but nothing is good merely because they want it. From this it follows that the man who knows—the philosopher or scholar or scientist—ought to have decisive power in government and that it is his knowledge alone which entitles him to this. This is the belief which underlies everything else in the *Republic* and causes Plato to sacrifice every aspect of the state that cannot be brought under the principle of enlightened despotism.

Upon examination, however, this principle is more broadly based than might at first be supposed. For it appears upon analysis that the association of man with man in society depends upon reciprocal needs and the resulting exchange of goods and services. Consequently the philosopher's claim to power is only a very important case of what is found wherever men live together, namely, that any co-operative enterprise depends upon every one attending to his own part of the work. In order to see what this involves for the state it is necessary to know what sorts of work are essential, an investigation which leads to the three classes of which the philosopher-ruler will obviously be the most important. But this dividing of tasks and securing the most perfect performance of each—the specialization of function which is the root of society—depends upon two factors, natural aptitude and training. The first is innate and the second is a matter of experience and education. As a practical enterprise the state depends on controlling and inter-relating these two factors; in other words, upon getting the best human capacity and developing it by the best education. The whole analysis reinforces the initial conception: there is no hope for states unless power lies in the hands of those who know—who know, first, what tasks the good state requires, and second, what heredity and education will supply the citizens fitted to perform them.

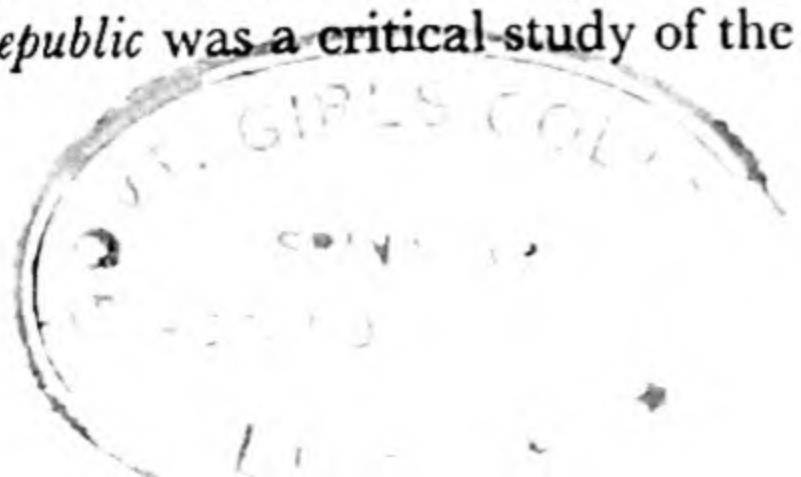
Plato's theory is, therefore, divisible into two main parts or theses: first, that government ought to be an art depending on exact

knowledge and, second, that society is a mutual satisfaction of needs by persons whose capacities supplement each other. Logically the second proposition is a premise for the first. But since Plato presumably derived the first almost ready-formed from Socrates, it is reasonable to suppose that temporally the second was a generalization or extension of the first. The Socratic principle that virtue is knowledge proved to have a larger applicability than appeared on its face.

THE INCOMPETENCE OF OPINION

The thesis that the good is a matter of exact knowledge descends to Plato directly from the already ancient distinction of nature and convention and the quarrel between Socrates and the Sophists. Unless something is good, really and objectively, and unless reasonable men can agree about it, there is no standard for an art of statesmanship such as Plato hoped to found. The question in its various ramifications is spread at large over Plato's earlier dialogues, in the continually recurring analogy between the statesman and the physician or the skilled artisan, in the counter comparison in the *Gorgias* of oratory to the pampering of appetite by cookery, in the lack of method and the pretentiousness attributed to the teaching of the Sophists in the *Protagoras*, and on a more speculative level in the frequently recurring question about the relative positions of reason and inspiration, or of methodical knowledge and intuition. In the same category belong the long discussions of art in the *Republic* and the not very flattering estimate of artists as men who get an effect without knowing how or why. This parallels precisely the charge that statesmen, even the greatest of them, have governed by a kind of "divine madness." Obviously no one can seriously hope to teach divine madness.

The difficulties of the city-state, however, are not in Plato's opinion the result of defective education alone, and still less of moral deficiencies in its statesmen or its teachers. They arise rather from a sickness of the whole body-public and of human nature itself. The public itself, he said, is the great Sophist. A constantly recurring note in his ethics is the conviction that human nature is at war with itself, that there is a lower man from whom the higher man must at all costs save himself. It was this which made Plato seem to the Fathers of the Church "almost a Christian." Quite gone is the faith in "happy versatility" so magnificently praised in the Funeral Oration. The happy confidence of a generation that had created both spontaneously and successfully has given place to the doubt and uncertainty of a more critical age. In Plato the hope still persisted that it may be possible to recapture the happier frame of mind, but only through methodical self-examination and rigid self-discipline. In origin, therefore, the *Republic* was a critical study of the city-state as it actually was, with all



the concrete defects that Plato saw in it, though for special reasons he chose to cast his theory in the form of an ideal city. This ideal was to reveal those eternal principles of nature which existing cities tried to defy.

Chief among the abuses that Plato attacked was the ignorance and incompetence of politicians, which is the special curse of democracies. Artisans have to know their trades, but politicians know nothing at all, unless it be the ignoble art of pandering to the "great beast." After the disastrous outcome of the Peloponnesian War, the generation in which the *Republic* was written was peculiarly a time in which Athenians would be likely to admire the thoroughness and discipline of Sparta. Xenophon went farther than Plato in this direction, and, indeed, Plato never could have admired wholeheartedly a one-sided military education like that at Sparta, however much he might admire the devotion to duty that it produced. But it is noticeable that he was more sharply critical of Sparta at the end of his life, when he wrote the *Laws*, than he was in the *Republic*. Moreover, the idea of expert skill professionally trained was one which, in Plato's day, was just dawning upon Greece. Not many years before the Academy was opened a professional soldier, Iphicrates, had astonished the world by showing what a body of light-armed, professionally trained troops could do even against the heavy infantry of Sparta. Professional oratory may be said to have started about the same time with the School of Isocrates. Thus Plato was merely making explicit an idea that was already growing up. What he rightly perceived was that the whole question is much larger than the training of soldiers or orators, or even than training itself. Behind training lies the need of knowing what to teach and what to train men to do. It cannot be assumed that some one already has the knowledge which shall be taught; what is most urgently needed is more knowledge. The really distinctive thing in Plato is the coupling of training with investigation, or of professional standards of skill with scientific standards of knowledge. Herein lies the originality of his theory of higher education in the *Republic*, and something of this sort, it is tempting to believe, he must have tried to realize in the founding of the Academy.

Incompetence is a special fault of democratic states, but there is another defect which Plato saw in all existing forms of government equally. This is the extreme violence and selfishness of party-struggles, which might at any time cause a faction to prefer its own advantage above that of the state itself. The harmony of political life—that adjustment of public and private interests which Pericles boasted had been achieved in Athens—was indeed, as Plato perceived, for the most part an ideal. Loyalty to the city was at best a precariously founded virtue, while the political virtue of ordinary custom was likely to be loyalty to some type of class-government. The aristocrat was loyal to an

oligarchical form of constitution, the man of common birth to a democratic constitution, and both alike were only too likely to make common cause with their own kind in another state. Practices which by standards of modern political ethics would be counted treasonable, were in Greek politics rather common. The best-known example, but by no means the worst, is Alcibiades, who did not hesitate to intrigue against Athens both with Sparta and Persia, in order to re-establish his own political influence and that of his party. Sparta, which was oligarchic in its form of government, was regularly looked to for support by the oligarchic party of every city within her sphere of influence, and in the same way Athens made common cause with the popular factions.

This fierce spirit of factionalism and party-selfishness was manifestly a chief cause of the relative instability of government in the city-state. Plato attributed it largely to the discrepancy of economic interests between those who have property and those who have none. The oligarch is interested in the protection of his property and the collection of his debts, whatever hardship this works upon the poor. The democrat is prone to schemes for supporting idle and indigent citizens at public expense, that is, with money taken from the well-to-do. Thus in even the smallest city there are, Plato said, two cities, a city of the rich and a city of the poor, eternally at war with each other. So serious is this condition that Plato can see no cure for factionalism in Greek politics unless there is a profound change in the institution of private property. As a root-and-branch remedy he would abolish it outright, but at the very least he believes it necessary to do away with the great extremes of poverty and wealth. And the education of citizens to prefer civic welfare before everything else is hardly less important than the education of rulers. Incompetence and factionalism are two fundamental political evils that any plan for perfecting the city-state must meet.

THE STATE AS A TYPE

The theoretical or scientific implications of Plato's principle are not less important for him than the critical. There is a good both for men and for states, and to grasp this good, to see what it is and by what means it may be enjoyed, is a matter of knowledge. Men have, indeed, all sorts of opinions about it and all sorts of impressionistic notions about how to reach it, but of opinions there is no end and among them there is little to choose. Knowledge about the good, if it could be attained, would be quite a different sort of thing. There would, in the first place, be some rational guarantee for it; it would justify itself to some faculty other than that by which men hold opinions. And in the second place, it would be one and unchanging, not one thing at Athens and another at Sparta, but the same always and everywhere.

In short, it would belong to nature and not to the shifting winds of custom and convention. In man, as in other parts of the world, there is something permanent, a 'nature' as distinct from an appearance, and to grasp nature is just what discriminates knowledge from opinion. When Plato says that it is the philosopher who knows the good, this is no boast of omniscience; it is merely the assertion that there is an objective standard and that knowledge is better than guesswork. The analogy of professional or scientific knowledge is never far from Plato's mind. The statesman ought to know the good of a state as the physician knows health, and similarly he should understand the operation of disturbing or preserving causes. It is knowledge alone which distinguishes the true statesman from the false, as it is knowledge that distinguishes the physician from the quack.

To Plato when he wrote the *Republic* this determination to be scientific implied that his theory must sketch an ideal state and not merely describe an existing state. Though it may seem paradoxical, it is literally true that the *Republic* pictures a utopia not because it is a 'romance,' as Dunning imagines,[1] but because Plato intended it to be the start of a scientific attack upon the "idea of the good." The statesman was really to know what the good is and consequently what is required to make a good state. He must know also what the state is, not in its accidental variations, but as it is intrinsically or essentially. Incidentally, the philosopher's right to rule could only be vindicated if this were shown to be implied by the nature of the state. Plato's state must be a "state as such," a type or model of all states. No merely descriptive account of existing states would serve his purpose, and no merely utilitarian argument would vindicate the philosopher's right. The general nature of the state as a kind or type is the subject of the book, and it is a secondary question whether actual states live up to the model or not. This procedure accounts for the rather cavalier way in which Plato treats questions of practicability, which are likely to bother the modern reader. It is easy to exaggerate his remoteness from actual conditions, but as he understood the problem, the question whether his ideal state could be produced really was irrelevant. He was trying to show what in principle a state *must be*; if the facts are not like the principle, so much the worse for the facts. Or to put it a little differently, he was assuming that the good is what it objectively is; whether men like it or can be persuaded to want it is another matter. To be sure, if virtue is knowledge, it may be presumed that men will want the good when they find out what it is, but the good will be none the better for that.

Plato's way of proceeding here will be much more intelligible if it is realized that his conception of what would make a satisfactory science of politics is built upon the procedure of geometry. The relation of his

[1] *History of Political Theories, Ancient and Mediaeval* (1905), p. 24.

philosophy to Greek mathematics was exceedingly close, both because of the influence upon him of the Pythagoreans and because of the inclusion in his own School of at least two of the most important mathematicians and astronomers of the day. There is a tradition, indeed, that he refused to admit students who had not studied geometry. Moreover, Plato himself propounded to his students the problem of reducing the apparently erratic motions of the planets to simple geometric figures and the problem was solved by Eudoxus of Cnidos.[1] This feat produced the first scientific theory of the planetary system and also the first approximation to a mathematical explanation of any natural phenomenon. In short, the method and the ideal of exact scientific explanation, which first appeared in Greek geometry and astronomy and which reappeared in the astronomy and mathematical physics of the seventeenth century, is one strand in the great Platonic tradition. It has its beginning precisely in the generation which saw the founding of the Academy and the writing of the *Republic*.

It is no way surprising, therefore, that Plato should have imagined that progress in the rational understanding of the good life lay along a similar line. It was obvious to him that the precision of exact science depended upon a grasp of types; there is no geometry unless one is content to deal with idealized figures, neglecting the divergences and complications that occur in every representation of the type. All that empirical fact can claim, for example in astronomy, is that the types used shall "save the appearances"; in short, that the astronomer's deductions shall yield a result in agreement with what apparently is happening in the heavens. Manifestly the astronomer's types—his true circles and triangles—tell what is 'really' happening.[2] In the same manner the *Republic* aims not to describe states but to find what is essential or typical in them—the general sociological principles upon which any society of human beings depends, in so far as it aims at a good life. The line of thought is substantially similar to that which caused Herbert Spencer to argue for a deductive "Absolute Ethics," applying to the perfectly adapted man in the completely evolved society, as an ideal standard of reference for descriptive social studies.[3] The utility or even the possibility of such a project, as conceived either by Plato or Spencer, may be doubted, but it is a gross error to think that Plato intended to loose his imagination for a flight into the regions of fancy.

[1] Sir Thomas Heath, *Aristarchus of Samos* (1913), ch. xv, xvi.

[2] Cf. the contrast of real astronomy and 'star-gazing' (*Republic*, 529*b*–530*c*) and of science with computation throughout Plato's account of the higher education in mathematics (522*c*–527*c*).

[3] *Data of Ethics*, ch. xv.

RECIPROCAL NEEDS AND DIVISION OF LABOUR

The proposition that the statesman should be a scientist who knows the idea of the good supplied Plato with a point of view from which he could criticize the city-state and also with a method that led to the ideal state. From this point he was led directly to his analysis of the typical state, and here again he found that he could follow the rule of specialization. The frequent analogies between the statesman and other kinds of skilled workers, artisans, or professional men, are in truth more than analogies. This is true because societies arise in the first place out of the needs of men, which can be satisfied only as they supplement each other. Men have many wants and no man is self-sufficient. Accordingly they take helpers and exchange with one another. The simplest example is, of course, the production and exchange of food and the other means of physical maintenance, but the argument can be extended far beyond the economic needs of a society. For Plato it afforded a general analysis for all association of men in social groups. Wherever there is society there is some sort of satisfaction of needs and some exchange of services for this purpose.

This analysis, introduced so simply and unobtrusively by Plato into his construction of the ideal state, was one of the profoundest discoveries which his social philosophy contains. It brought to light an aspect of society which is admittedly of the greatest importance for any social theory, and it stated once for all a point of view which the social theory of the city-state never abandoned. Briefly stated it amounts to this: society is to be conceived as a system of services in which every member both gives and receives. What the state takes cognizance of is this mutual exchange, and what it tries to arrange is the most adequate satisfaction of needs and the most harmonious interchange of services. Men figure in such a system as the performers of a needed task and their social importance depends upon the value of the work they do. What the individual possesses, therefore, is first and foremost a status in which he is privileged to act, and the freedom which the state secures him is not so much for the exercise of his free will as for the practice of his calling.

Such a theory differs from one which pictures social relations in terms of contract or agreement and which, therefore, conceives the state as primarily concerned with maintaining liberty of choice. A theory of the latter sort occurs, as was pointed out in the last chapter, both in the fragment of Antiphon the Sophist and in the remarks on justice by Glaucon early in the second book of the *Republic*.[1] But Plato rejected it because agreement, resting solely upon the will, can never show that justice is intrinsically a virtue. Social arrangements can be shown to rest on nature rather than convention only if it can be shown that what

[1] 358*e* ff.

a man does has meaning beyond the mere fact that he wants to do it. How convincing the argument was found is shown by the fact that Aristotle, who was not greatly influenced by most of Plato's argument for his ideal state, was quite at one with him in this. The analysis of the community in the opening pages of the *Politics* was merely a new version of Plato's argument that a society depends upon mutual needs.

But exchange of services implies another principle of almost equal importance, the division of labour and the specializing of tasks. For if needs are satisfied by exchange, each must have more than he needs of the commodity which he offers, just as he must have less than he needs of that which he receives. It is clearly necessary, therefore, that there should be some specialization. The farmer produces more food than he needs while the shoemaker produces more shoes than he can wear. Hence it is advantageous to both that each should produce for the other, since both will be better fed and better clothed by working together than by each dividing his work to make all the various things he needs. This rests, according to Plato, upon two fundamental facts of human psychology, first, that different men have different aptitudes and so do some kinds of work better than others and, second, that skill is gained only where men apply themselves steadily to the work for which they are naturally fitted.

> We must infer that all things are produced more plentifully and easily and of a better quality when one man does one thing which is natural to him and does it at the right time, and leaves other things.[1]

Upon this brief but exceedingly penetrating analysis of society and of human nature Plato's further construction of the state depends.

It turns out, therefore, that the philosopher-ruler is not peculiar, but that his claim to power is justified by the same principle which is at work throughout all society. Banish specialization entirely and all social interchange is banished with it. Imagine men with no difference of natural aptitude and the basis for specialization is gone. Take away all training by which natural aptitude is perfected into developed skill and specialization becomes meaningless. These, then, are the forces in human nature upon which society and with it the state have to rely. The question, then, is not whether they shall be used but only whether they shall be used well. Shall men be divided according to their real aptitudes? Shall these aptitudes be wisely and adequately trained to bring them to their most perfect form? Shall the needs which men seek to satisfy co-operatively be their highest and most genuine needs, or merely the wants of their lower and more luxurious natures? These questions can be answered only in the light of what Plato calls inclusively a knowledge of the good. To know the good is to know how to answer them. And this is the special function of the philosopher. His knowledge is at once his right and his duty to rule.

[1] *Republic*, 370*c*.

CLASSES AND SOULS

It will be clear upon reflection that this argument makes an important assumption which is not explicitly stated by Plato. Individual capacities are assumed to be of such a sort that, when developed by a properly devised and controlled education, they will result in a harmonious social group. The difficulty with existing states has been that education has been wrong; or at all events, if better breeding is needed —and Plato believes that it is—an improvement of existing strains will accomplish the purpose. In other words, he takes for granted that there is nothing radically unsocial or anti-social in well-bred human beings which might result in disharmony precisely because of a complete and perfect development of individual powers. This assumption is not obviously true and many thinkers since Plato have questioned it; some have even gone to the length of supposing the opposite, namely, that socialized training must be more or less repressive of individual self-expression. But this possibility does not enter into Plato's calculations. While the assumption just mentioned is not explicitly stated, it does enter into the argument of the *Republic* at one point which is likely, without explanation, to be a little puzzling. This is the point at which the state is assumed to be merely the individual "writ large"[1] and at which, accordingly, the question about justice is transformed from the search for an individual virtue into the search for a property of the state. The difficulty of the transition, which seems to a modern reader a little artificial, is masked for Plato by the presumption that there is an inherent fitness of human nature for society and of society for human nature, and this fitness he interprets as a parallelism. Both man and the state have a single underlying structure which prevents the good for one from being essentially different from the good for the other.

It must be admitted that this assumption is responsible for much that is most attractive in the ethical ideal of the city-state and in Plato's representation of it. It explains why, in Plato's ethics, there is no ultimate cleft between inclination and duty or between the interests of individuals and those of the society to which they belong. Where such conflicts arise—and the *Republic* was written because they do arise—the problem is one of development and adjustment, not of repression and force. What the unsocial individual needs is a better understanding of his own nature and a fuller development of his powers in accordance with that knowledge. His internal conflict is not an unappeasable strife between what he wants to do and what he ought to do, because in the last resort the full expression of his natural powers is both what he really wants and what he is entitled to have. On the other hand, what the inharmonious society needs is to provide just those possibilities of complete development for its citizens which their needs demand. The

[1] 368*d*.

problem of the good state and of the good man are two sides of the same question, and the answer to one must at the same time give the answer to the other. Morality ought to be at once private and public and if it is not so, the solution lies in correcting the state and improving the individual until they reach their possible harmony. It may very well be doubted whether, in general terms, any better moral ideal than this has ever been stated.

At the same time Plato's attempt to make one analysis do duty for both the state and the individual yields him a theory much too simple to solve his problem. The analysis of the state shows that there are three necessary functions to be performed. The underlying physical needs must be supplied and the state must be protected and governed. The principle of specialization demands that essential services should be distinguished, and it follows that there are three classes: the workers who produce and the 'guardians,' who in turn are divided, though not so sharply, into the soldiers and the rulers, or the philosopher-king if he be a single ruler. But since division of functions rests on difference of aptitude, the three classes depend upon the fact that there are three kinds of men, those who are fitted by nature to work but not to rule, those who are fit to rule but only under the control and direction of others, and finally those who are fit for the highest duties of statesmanship such as the final choice of means and ends. These three aptitudes imply on the psychological side three vital powers or 'souls,' that which includes the appetitive or nutritive faculties and which Plato supposes to reside below the diaphragm, that which is executive or 'spirited' and which resides in the chest, and that which knows or thinks, the rational soul which is situated in the head. It would seem natural that each soul should have its own special excellence or virtue, and Plato does, in fact, carry out this plan in part. Wisdom is the excellence of the rational soul and courage of the active, but he hesitates to say that temperance can be confined to the nutritive soul. Justice is the proper inter-relation of the three functions, whether of the classes in the state or of the faculties in an individual.

It would probably be a mistake to put too much stress upon this theory of the 'three souls.' Plato seems never to have tried seriously to develop it, and often in psychological discussion he does not use it. Moreover, it is certainly not true that in the *Republic* the three classes are so sharply separated as his schematic statement of the theory would lead one to expect. The classes are certainly not castes, for membership in them is not hereditary. On the contrary his ideal seems to be a society in which every child born is given the highest training that his natural powers permit him to profit by, and in which every individual is advanced to the highest position in the state that his achievements (his capacity *plus* his education and experience) enable him to fill adequately. Plato in the *Republic* showed himself remarkably free from

temperamental class-prejudice, much freer than Aristotle, for example, and freer than he seems to be in the outline of the second-best state in the *Laws*. But when all these allowances are made, the fact remains that the parallelism assumed between mental capacities and social classes is a restricting influence which prevented him from doing justice in the *Republic* to the complexity of the political problems under discussion. The theory obliged him to assume that all the intelligence in the state was concentrated in the rulers, though his repeated references to the skill of the artisans in their own kind of work shows that he did not literally believe this. On the other hand, in their political capacity the workers have nothing to do but obey, which is nearly the same thing as to say that they have no properly political capacity at all. The position to which they are assigned cannot be corrected even by education, because they seem not to need education for civic activity or for participation in the self-governing activities of the community. In this part of the state's life they are onlookers.

This result has often been attributed, as for example by Edward Zeller,[1] to a contempt for artisans and the handicrafts as compared with intellectual labour, but in truth Plato showed a more genuine admiration for manual skill than Aristotle. The explanation is to be found rather in the assumption that good government is nothing but a matter of knowledge and that knowledge is always the possession of a class of experts, like the practice of medicine. According to Plato most men are permanently in the relation to their rulers of a patient to his physician. Aristotle asked a pertinent question on this point when he inquired whether there are not cases where experience is a better guide than the knowledge of an expert.[2] A man who has to live in a house need not rely on a builder to tell him whether it is commodious or not. But Plato's ideas about sound knowledge when he wrote the *Republic* allowed little importance to experience. The result was that he failed to grasp one of the most significant political aspects of the city-state whose civil life he desired to perfect. His distrust of 'happy versatility' was so great that he swung to the opposite extreme and allowed to artisans no capacity for public service except their trades. The old free give and take of the town-meeting and the council is utterly gone, and this side of human personality, which the Athenian democrat valued above everything, must be quite eradicated from the masses. So far as the higher activities of life are concerned, they live in a state of tutelage to wiser men.

[1] *Plato and the Older Academy*. Trans. by S. F. Alleyne and Alfred Goodwin (1888), p. 473.
[2] *Politics*, 3, 11; 1282*a*, 17 ff.

JUSTICE

The theory of the state in the *Republic* culminates in the conception of justice. Justice is the bond which holds a society together, a harmonious union of individuals, each of whom has found his life-work in accordance with his natural fitness and his training. It is both a public and a private virtue because the highest good both of the state and of its members is thereby conserved. There is nothing better for a man than to have his work and to be fitted to do it; there is nothing better for other men and for the whole society than that each should thus be filling the station to which he is entitled.

> Social justice thus may be defined as the principle of a society, consisting of different types of men . . . who have combined under the impulse of their need for one another, and by their combination in one society, and their concentration on their separate functions, have made a whole which is perfect because it is the product and the image of the whole of the human mind.[1]

This is Plato's elaboration of the *prima facie* definition of justice as "giving to every man his due." For what is due *to* him is that he should be treated as what he is, in the light of his capacity and his training, while what is due *from* him is the honest performance of those tasks which the place accorded him requires.

To a modern reader such a definition of justice is at least as striking for what it omits as for what it includes. In no sense is it a juristic definition. For it lacks the notion, connoted by the Latin word *ius* and the English word right, of powers of voluntary action in the exercise of which a man will be protected by law and supported by the authority of the state. Lacking this conception Plato does not mean by justice, except remotely, the maintenance of public peace and order; at least, external order is but a small part of the harmony which makes the state. What the state provides its citizens is not so much freedom and protection as a life—all the opportunities for social interchange which make up the necessaries and the amenities of a civilized existence. It is true that in such a social life there are rights, just as there are duties, but they can hardly be said to belong in any peculiar sense to individuals. They are inherent rather in the services or functions that individuals perform. Resting as it does upon the principle that the state is created by mutual needs, the analysis runs necessarily in terms of services and not of powers. Even the ruler is no exception, for he has merely the special function to which his wisdom entitles him. The notion of authority or sovereign power, such as the Roman attached to his magistracies, has practically no part in Plato's political theory, nor indeed in that of any Greek philosopher.

This completes the general outline of Plato's theory of the state.

[1] E. Barker, *Greek Political Theory, Plato and his Predecessors* (1925), pp. 176 f.

Starting from the conception that the good must be known by methodical study, the theory constructs society around this idea by showing that the principle is implicit in all society. The division of labour and the specialization of tasks are the conditions of social co-operation, and the problem of the philosopher-king is to arrange these matters in the most advantageous way. Because human nature is innately and inherently social, the maximum advantage to the state means also the maximum advantage to citizens. The goal is, therefore, a perfect adjustment of human beings to the possibilities of significant employment which the state affords. The remainder of Plato's argument might almost be described as a corollary. The only remaining question concerns the means by which the statesman can bring about the adjustment required. Broadly speaking there are only two ways to take hold of this problem. Either the special hindrances to good citizenship may be removed or the positive conditions of good citizenship may be developed. The first results in the theory of communism and the second in the theory of education.

PROPERTY AND THE FAMILY

Plato's communism takes two main forms which meet in the abolition of the family. The first is the prohibition of private property, whether houses or land or money, to the rulers and the provision that they shall live in barracks and have their meals at a common table. The second is the abolition of a permanent monogamous sexual relation and the substitution of regulated breeding at the behest of the rulers for the purpose of securing the best possible offspring. This bracketing of the two social functions of procreating children and of producing and owning goods was more obvious in a society that lived mainly under a household economy than it is now. A radical innovation in respect to the one coalesced readily with an innovation in respect to the other. Communism in the *Republic*, however, applies only to the guardian class, that is, to the soldiers and rulers, while the artisans are to be left in possession of their private families, both property and wives. How this is to be made consistent with promotion from the lower rank to the higher is not explained. But the truth is that Plato does not take the trouble to work out his plan in much detail. Still more striking is the fact that, in connection with his theory of private property, he does not have anything to say about slaves. It is a fact that Plato's state seemingly might exist without slavery, since no work especially to be done by slaves is mentioned, a respect in which the state of the *Laws* is strikingly different. This has led Constantin Ritter to argue that in the *Republic* slavery is "in principle abolished."[1] But it is almost incredible that Plato intended to abolish a universal

[1] *Platon, sein Leben, seine Schriften, seine Lehre* (1923), Vol. II, p. 596.

institution without mentioning it. It is more probable that he merely regarded slavery as unimportant.

Plato was in no way unique in believing that an economic cleavage between the citizens of a state is a most dangerous political condition. In general, the Greeks were quite frank in admitting that economic motives are very influential in determining political action and political affiliation. Long before the *Republic* was written Euripides had divided citizens into three classes, the useless rich who are always greedy for more, the poor who have nothing and are devoured by envy, and the middle class, the sturdy yeomanry, who "save states."[1] The oligarchical state to a Greek meant a state governed by, and in the interest of, the well-born among whom the possession of property is hereditary, while a democratic state was one governed by and for the 'many,' who have neither birth nor property. The economic difference was the key to the political distinction, as is quite clear from Plato's account of oligarchy.[2] The importance of economic causes in politics was, therefore, no new idea, and in believing that great diversity of wealth was inconsistent with good government, Plato was following a common conviction which represented Greek experience through many generations. The causes of civic unrest in Athens had been mainly of this sort from at least the days of Solon.

So firmly was Plato convinced of the pernicious effects of wealth upon government that he saw no way to abolish the evil except by abolishing wealth itself, so far as soldiers and rulers are concerned. To cure the greed of rulers there is no way short of denying them the right to call anything their own. Devotion to their civic calling admits no private rival. The example of Sparta, where citizens were denied the use of money and the privilege of engaging in trade, doubtless weighed with Plato in reaching this conclusion. His reasons, however, should be carefully noted. He was not in the least concerned to do away with inequalities of wealth because they are unjust to the individuals concerned. His purpose was to produce the greatest degree of unity in the state, and private property is incompatible with this. The emphasis is characteristic of Greek thought, for when Aristotle criticizes communism, he does so not on the ground that it is unfair, but on the ground that it would not in fact produce the unity desired. Plato's communism has, therefore, a strictly political purpose. The order of ideas is exactly the reverse of that which has mainly animated modern socialist utopias; he does not mean to use government to equalize wealth, but he equalizes wealth in order to remove a disturbing influence in government.

The same is true also of Plato's purpose in abolishing marriage, since he regards family affection, directed towards particular persons, as another potent rival to the state in competing for the loyalty of

[1] *The Suppliants*, ll. 238–245.

[2] *Republic*, 551*d*.

rulers. Anxiety for one's children is a form of self-seeking more insidious than the desire for property, and the training of children in private homes he regards as a poor preparation for the whole-souled devotion which the state has a right to demand. But in the case of marriage Plato had other purposes as well. He was appalled at the casualness of human mating, which, as he says, would not be tolerated in the breeding of any domestic animal. The improvement of the race demands a more controlled and a more selective type of union. Finally, the abolition of marriage was probably an implied criticism of the position of women in Athens, where her activities were summed up in keeping the house and rearing her children. To Plato this seemed to deny to the state the services of half its potential guardians. Moreover, he was unable to see that there is anything in the natural capacity of women that corresponds to the Athenian practice, since many women are as well qualified as men to take part in political or even military duties. The women of the guardian class will consequently share all the work of the men, which makes it necessary both that they shall receive the same education and be free from strictly domestic duties.

To a modern taste there is something a little startling about the coolly unsentimental way in which Plato argues from the breeding of domestic animals to the sexual relations of men and women. It is not that he regards sex casually, for the reverse is emphatically true; in fact, he demands a degree of control and of self-control that has never been realized among any large population. The point is rather that he carries out a line of thought relentlessly and with little regard for difficulties that are manifest to feeling even when they are not explicitly stated. The unity of the state is to be secured; property and family stand in the way; therefore property and marriage must go. There can be no doubt that here Plato spoke the authentic language of doctrinaire radicalism, which is prepared to follow the argument where it may lead. On the score of common sense Aristotle's answer left nothing to be said. It is possible, he pointed out, to unify a state to the point where it ceases to be a state. A family is one thing and a state is something different, and it is better that one should not try to ape the other.

EDUCATION

However much importance Plato attached to communism as a means for removing hindrances from the path of the statesman, it was not upon communism but upon education that he placed his main reliance. For education is the positive means by which the ruler can shape human nature in the right direction to produce a harmonious state. A modern reader cannot fail to be astonished at the amount of space devoted to education, at the meticulous care with which the effect of different studies is discussed, or at the way in which Plato

frankly assumes that the state is first and foremost an educational institution. He himself called it "the one great thing"; if the citizens are well educated they will readily see through the difficulties that beset them and meet emergencies as they arise. So striking is the part played in Plato's ideal state by education that some have considered this to be the chief topic of the *Republic*. Rousseau said that the book was hardly a political work at all, but was the greatest work on education ever written. Obviously this was no accident but a logical result of the point of view from which the work was written. If virtue is knowledge, it can be taught, and the educational system to teach it is the one indispensable part of a good state. From Plato's point of view, with a good system of education almost any improvement is possible; if education is neglected, it matters little what else the state does.

This degree of importance being conceded, it follows as a matter of course that the state cannot leave education to private demand and a commercialized source of supply, but must itself provide the needed means, must see that citizens actually get the training they require, and must be sure that the education supplied is consonant with the harmony and well-being of the state. Plato's plan is, therefore, for a state-controlled system of compulsory education. His educational scheme falls naturally into two parts, the elementary education, which includes the training of young persons up to about the age of twenty, and cuminates in the beginning of military service,[1] and the higher education, intended for those selected persons of both sexes who are to be members of the two ruling classes and extending from the age of twenty to thirty-five. It is necessary to consider these two branches of education separately, as Plato himself does.

The plan for a compulsory, state-directed scheme of education was probably the most important innovation upon Athenian practice which Plato had to suggest, and his insistence upon it in the *Republic* may be interpreted as a running criticism upon the democratic custom of leaving every man to purchase for his children such education as he fancies or as the market affords. In the *Protagoras* he broadly implied that often they give less thought to training their children than to breaking a good colt. The Athenian exclusion of women from education falls under the same criticism. Since Plato believed that there was no difference in kind between the native capacities of boys and girls, he logically concluded that both should receive the same kind of instruction and that women should be eligible to the same offices as men. This, of course, is in no sense an argument for women's rights, but merely a plan for making the whole supply of natural capacity avail-

[1] The compulsory military service of Athenian boys between the ages of eighteen and twenty was probably not yet in force when Plato wrote, though it was adopted not many years after, as Wilamowitz supposes, because of the *Laws* (*Aristoteles und Athen* (1893), Vol. I, pp. 191 ff.).

able to the state. In view of the importance which education has in the state, it is extraordinary that Plato never discusses the training of the artisans and does not even make clear how, if at all, they are to be included in the plan of elementary instruction. This fact illustrates again the surprising looseness and generality of his conclusions, since his unquestionable intention to promote promising children born of artisan parents seems to be wholly unworkable unless a competitive educational system made selection possible. On the other hand, he did not exclude the artisans, and it is an open question whether those commentators, especially Zeller, are right who regard the omission as evidence of Plato's aristocratic contempt for the workers. It is at least true that he set no great store by general education much as he relied on selective education for the more gifted youth.

The plan of elementary education sketched in the *Republic* was rather a reform of existing practice than the invention of a wholly new system. The reform may be said roughly to consist in combining the training usually given to the son of an Athenian gentleman with the state-controlled training given to a youthful Spartan and in revising pretty drastically the content of both. The curriculum was, therefore, divided into two parts, gymnastics for training the body and 'music' for training the mind. By music Plato meant especially the study and interpretation of the masterpieces of poetry, as well as singing and playing the lyre. It is easy to exaggerate the influence of Sparta upon Plato's theory of education. Its most genuinely Spartan feature was the dedication of education exclusively to civic training. Its content was typically Athenian, and its purpose was dominated by the end of moral and intellectual cultivation. This is true even of gymnastics, which aims only secondarily at giving physical prowess. Gymnastics might be called a training of the mind through the body, as distinguished from direct training of the mind by music. It is meant to teach such soldierly qualities as self-control and courage, a physical keenness tempered by gentleness, as Plato himself defines it. Plato's plan of training represents, therefore, an Athenian, not a Spartan, conception of what constitutes an educated man. Any other conclusion would have been unthinkable for a philosopher who believed that the only salvation for states lay in the exercise of trained intelligence.

But while the content of elementary education was mainly poetry and the higher forms of literature, it cannot be said that Plato desired particularly an æsthetic appreciation of these works. He regarded them rather as a means of moral and religious education, somewhat in the way that Christians have regarded the Bible. For this reason he proposed not only to expurgate drastically the poets of the past, but to submit the poets of the future to censorship by the rulers of the state, in order that nothing of bad moral influence might fall into the hands of the young. For a man who was a consummate artist himself Plato

had a singularly philistine conception of art. Or perhaps it would be truer to say that when he wrote about the moral purpose of art a certain puritanical, almost an ascetic, strain is apparent which seems in general out of character for a fourth-century Greek, though it is a strain which appears elsewhere in Plato. Philosophically this is connected with the very sharp contrast of mind and body, most evident in the *Phædo*, which passed from Plato to Christianity. The poverty which Plato exacts of his rulers perhaps shows the same tendency, as do also the preference which he expressed for a very primitive (non-luxurious) sort of state at the beginning of his construction of the ideal state, and the suggestion accompanying the Myth of the Den that the philosopher may have to be forced to descend from a life of contemplation to take part in the affairs of man. Obviously the rule of philosophers might easily become a rule of the saints. Probably the closest analogue that has ever existed to Plato's ideal state is a monastic order.

Undoubtedly the most original as well as the most characteristic proposal in the *Republic* is the system of higher education, by which selected students are to be prepared, between the ages of twenty and thirty-five, for the highest positions in the guardian class. The relation of such a conception of higher education to the founding of the Academy and to the whole plan for a science and art of statesmanship has been sufficiently stressed. Unless it be the Academy, there was nothing in Greek education upon which Plato could have built; the idea was entirely and characteristically his own. The higher education of the guardians was in purpose professional, and for his curriculum Plato chose the only scientific studies known to him—mathematics, astronomy, and logic. Beyond doubt he believed that these most exact studies are the only adequate introduction to the study of philosophy, and there is little reason to doubt that he expected the philosopher's special object of study—the idea of the good—to yield results of comparable precision and exactness. For this reason the outline of the ideal state properly culminates in the plan for an education in which such studies would be fostered, in which new investigations would be undertaken and new knowledge placed at the disposal of rulers. In order to appreciate the greatness of such a conception it is not necessary to believe that Plato was right in hoping for a science of politics as exact as mathematics. It is hardly fair to demand more of him than that he should have tried to follow the lead which, in his own hands and those of his students, was creating in mathematics perhaps the truest monument to human intelligence.

THE OMISSION OF LAW

Few books that claim to be treatises on politics are so closely reasoned or so well co-ordinated as the *Republic*. None, perhaps, contains a line

of thought so bold, so original, or so provocative. It is this quality which has made it a book for all time, from which later ages have drawn the most varied inspiration. For the same reason its greatest importance is general and diffused, rather than the result of specific imitation. The *Republic* was the greatest of utopias and the whole tribe of utopian philosophers followed it, but this phase of the book interested Plato so little that he was almost careless in carrying through the details of the plan. The true romance of the *Republic* is the romance of free intelligence, unbound by custom, untrammelled by human stupidity and self-will, able to direct the forces even of custom and stupidity themselves along the road to a rational life. The *Republic* is eternally the voice of the scholar, the profession of faith of the intellectual, who sees in knowledge and enlightenment the forces upon which social progress must rely. And indeed, who can say what are the limits of knowledge as a political force, and what society has yet brought to bear upon its problems the full power of trained scientific intelligence?

Yet it is impossible to avoid the conclusion that in the *Republic* Plato, like most intellectuals, simplified his problem beyond what the province of human relations will bear. An enlightened despotism—and Plato is right when he concludes that government by intelligence must be government by the few—cannot be merely assumed to be the last word in politics. The presumption that government is purely a matter of scientific knowledge, which the mass of men can resign into the hands of a few highly trained experts, leaves out of account the profound conviction that there are some decisions which a man must make for himself. This is no argument certainly for 'muddling through' in cases where muddling means only the bungling choice of means for recognized ends. But Plato's argument assumes that the choice of ends is exactly comparable with the choice of means for an end already agreed upon, and this appears to be simply not true. His comparison of government to medicine, carried through to its farthest extreme, reduces politics to something that is not politics. For an adult, responsible human being, even though he be something less than a philosopher, is certainly not a sick man who requires nothing but expert care. Among other things he requires the privilege of taking care of himself and of acting responsibly with other like responsible human beings. A principle which reduces political subordination to one type, the relation of those who know to those who do not know, is simpler than the facts.

Not the least significant aspect of the *Republic* is what it omits, namely, law and the influence of public opinion. The omission is perfectly logical, for Plato's argument is unanswerable if his premise is granted. If rulers are qualified merely by their superior knowledge, either the judgment of public opinion upon their acts is irrelevant or else the pretence of consulting it is a mere piece of political jesuitry by

which the 'discontent of the masses' is held in check. Similarly, it is as foolish to bind the hands of the philosopher-king with the rules of law as to force an expert physician to copy his prescription from the recipes in a medical text-book. But in reality the argument begs the question. For it assumes that public opinion is nothing but a muddled representation of what the ruler already knows more clearly, and that law has no meaning other than to give the least bungling rule that will fit an average case. And this is not a description but a caricature. As Aristotle said, the knowledge of a thing in use and by direct experience is different in kind from a scientist's knowledge about it, and presumably it is just this immediate experience of the pressures and burdens of government, of their bearing upon human interests and ends, that public opinion expresses. Presumably also, the law contains not merely an average rule but also an accumulation of the results of applying intelligence to concrete cases and also an ideal of equitable treatment of like cases.

At all events the ideal state of the *Republic* was simply a denial of the political faith of the city-state, with its ideal of free citizenship and its hope that every man, within the limits of his powers, might be made a sharer in the duties and privileges of government. For this ideal was founded on the conviction that there is an ineradicable moral distinction between subjection to the law and subjection to the will of another human being, even though that other be a wise and benevolent despot. The difference is that the first is compatible with a sense of freedom and dignity while the second is not. The sense of his own freedom under the law was precisely the element in the city-state upon which the Greek set the highest moral valuation and which made the difference, to his mind, between a Greek and a barbarian. And this conviction, it must be acknowledged, has passed from the Greeks into the moral ideals of most European governments. It was expressed in the principle that "governments derive their just powers from the consent of the governed," and vague as the meaning of consent is, it is hard to imagine that the ideal itself will disappear. For this reason Plato's omission of law from his ideal state cannot be interpreted otherwise than as a failure to perceive a striking moral aspect of the very society which he desired to perfect.

At the same time it is clear that Plato could not have included the law as an essential element of the state without reconstructing the whole philosophical framework of which the ideal state is a part. Its omission was not a matter of caprice but a logical consequence of the philosophy itself. For if scientific knowledge has always the superiority to popular opinion which Plato supposes, there is no ground for that respect for law which would make it the sovereign power in the state. Law belongs to the class of convention; it rises through use and wont; it is the product of experience growing slowly from precedent to prece-

dent. A wisdom which arises by rational insight into nature cannot abdicate its claims before the claim of law, unless law itself has access to a kind of wisdom different from that which scientific reason possesses. If, then, Plato is wrong in trying to make the state over into an educational institution, if this puts a load upon education which it is not able to bear, the philosophical principles—especially the sharp contrast of nature and convention and of reason and experience—need to be re-examined. It is the suspicion that this might be the case, at least the sense that the theory in the *Republic* had not got to the bottom of all the problems involved, that led Plato in his later years to canvass the place of law in the state and to formulate in the *Laws* another type of state in which law rather than knowledge should be the ruling force.

CHAPTER IV

PLATO: THE "STATESMAN" AND THE "LAWS"

THE later form of Plato's political philosophy, contained in the *Statesman* and the *Laws*, belongs a good many years after that contained in the *Republic*. The two later works show a resemblance and the theory which they contain is in marked contrast with that of the *Republic*; together they present the final results of Plato's reflection upon the problems of the city-state. The *Laws* was definitely a work of his old age, and all critics agree in finding in it evidence of declining powers, though this has very often been exaggerated. In respect to literary quality there is no comparison between the *Republic* and the *Laws*. The earlier work is conceded to be the greatest literary masterpiece in the whole range of philosophical writing. The *Laws*, on the other hand, is distinctly hard reading. It is rambling, even when all allowance is made for the liberties in this regard that the dialogue-form permitted; it is wordy and it is repetitious. The tradition that it lacked the author's final revision is plausible. It contains fine passages—passages which competent scholars consider as fine as any in Plato's works—but he has lost either the capacity for, or the interest in, sustained literary effect.

Because of its defects of style the *Laws* has been little read, as compared with the *Republic*, and there has perhaps been a tendency to confuse its decline in literary quality with a decline in intellectual power. This is certainly a mistake. The political philosophy of the *Laws* has not the bold sweep of speculative construction that is found in the *Republic*, but on the other hand in the later form of his theory Plato tried to come to grips with political actualities in a way that he never approached in the earlier work. This accounts in part for its lack of order; it is developed less upon a single train of thought and more upon the complexities of its subject-matter. The *Republic* is a book for all time, because the generality of its principles is almost timeless. But the later form of Plato's thought was more influential in the development of political philosophy by his successors in the ancient world. This is evident in the case of Aristotle, since it is the *Statesman* and the *Laws*, rather than the *Republic*, which formed the point of departure for the *Politics*. In respect to its influence on the discussion of specifically political questions in their theoretical aspects—such, for example, as the constitution of states, their political organization, and especially

the theory of the so-called 'mixed' state—it would be hard to exaggerate the importance of the *Laws*.

THE READMISSION OF LAW

The line of thought which Plato followed in the *Republic* yielded a theory in which everything was subordinated to the ideal of the philosopher-king, whose unique claim to authority is the fact that he alone knows what is good for men and states. The working-out of this line of reflection resulted in the exclusion of law altogether from the ideal state and the conception of the state as an educational institution only, in which the majority of the citizens are in a condition of permanent tutelage to the philosopher-ruler. This ran quite contrary to the deepest convictions of the Greeks about the moral value of freedom under the law and of participation by the citizens in the task of self-government. In this sense the first form of Plato's political theory was one-sided in its devotion to a single principle and inadequate to express the ideals of the city-state. This suspicion in the mind of its author was responsible for the direction which his later thought took. As the name of the dialogue indicates, the *Laws* was written in an attempt to restore law to the place which it occupied in the moral estimation of the Greeks and from which Plato had tried to remove it. The fundamental difference between the theory of the *Republic* and that of the *Laws* is that the ideal state of the former is a government by specially chosen and specially trained men, quite untrammelled by any general regulations, while the state sketched in the latter is a government in which law is supreme, ruler and subject alike being subject to it. But this difference implied drastic changes in all the underlying principles of government, more drastic changes than Plato succeeded in carrying through to a logical conclusion.

It is not uncommon to impute the change from the earlier to the later form of his political theory to the disillusionment which he must have suffered as a consequence of the failure in his attempt to take part in the affairs of Syracuse, and it may well be that this experience brought home to Plato the actualities of political life in an especially poignant fashion. At the same time it is impossible to suppose that he went to Syracuse with the expectation of founding an ideal state ruled by a philosopher-king and then modified his views because he failed. Plato himself in the Seventh Letter says the contrary. In his advice to Dion's followers he says:

> Let not Sicily nor any city anywhere be subject to human masters—such is my doctrine—but to laws. Subjection is bad both for masters and for subjects, for themselves, for their children's children, and for all their posterity.[1]

[1] 334*c–d*; L. A. Post's trans.

And though this was written in 353, Plato says also that the plan which he recommends for a legislative commission to draw up new laws is akin to what he and Dion had intended to carry through together.[1] It is clear, therefore, that the venture at Syracuse was from the start designed to issue in a state under the forms of law. The legislative commission—a common device in Greece for formulating a code for a colony—is the literary device which offers the excuse for the *Laws*. And if the *Statesman* was written about the time of Plato's association with Dion (367–361), the discussion of the relative merits and demerits of law in government evidently marks a doubt in his mind about the feasibility of his conclusions in the *Republic*. It is safe to conclude, therefore, that Plato never made any sudden change in his convictions and that he was aware over a long period of years that the omission of law from the ideal state was a cardinal difficulty.

On the other hand, it is also a fact that Plato never definitely decided that the theory developed in the *Republic* was erroneous and had to be abandoned. He says repeatedly that his purpose in the *Laws* is to describe a second-best state, and he sometimes puts this assertion into conjunction with his strongest statements about the importance of law. Without laws men "differ not at all from the most savage beasts," and yet if a competent ruler should arise, they would have no need to be ruled by laws, "for no law or ordinance is mightier than knowledge."[2] To the end, therefore, Plato was convinced that in a truly ideal state the rule of pure reason, embodied in the philosopher-king and unhampered by law or custom, ought to prevail. Perhaps he was never very sure that such an ideal could be realized, but as time went on he became convinced that it could not. The state ruled by law was always a concession to the frailty of human nature and never something which he was willing to accept as having a right to stand on a parity with the ideal. Still, if the knowledge necessary to make the philosopher-king is unattainable, then Plato is clear that the common moral consciousness is right in believing that a government according to law is better than a government by men, rulers being what they are. The relation between the two theories is highly unsatisfactory; the ideal is logically irreproachable but not attainable in fact, while the second-best state is not impossible to attain but is shaky in respect to its credentials.

Now the truth is that this difficulty about the best and the second-best state grew directly out of a fundamental problem in Plato's philosophy which he had to face at many points during the latter part of his life and which he never succeeded in solving. It was not a question merely of making up his mind whether he did or did not have a high opinion of the law as an element in government. If the line of reasoning followed in the *Republic* (together with the general body of

[1] 337*d*. [2] 874*e*; 875*c*.

philosophical principles) was sound, there was no place in the state for law. Conversely, if a place had to be made for law, then there was nothing for it but to modify profoundly the whole philosophical structure and to admit principles which, to say the least, would greatly complicate it. The situation presented a dilemma and the fact that Plato himself saw and stated it is the true measure of his intellectual greatness. Probably no critic from Aristotle on has ever stated an objection against Plato which he could not have learned from reading Plato.

The exclusion of law from the ideal state resulted from the twofold fact that statesmanship is defined as an art depending upon an exact science and that this science is conceived, after the manner of mathematics, as a rational apprehension of the type to which factual knowledge contributes nothing, or at least nothing beyond illustration. Behind this theory is the presumption that intelligence and perception are at least disparate and perhaps opposed; knowledge of the type is impossible so long as a thinker is hemmed in and restricted by all the insignificant variability that the senses show, just as true astronomy is impossible so long as the real motions of the planets are believed to be what they seem to be. On the side of ethics a knowledge of the good implies a like independence of the inclinations and appetites that are most closely associated with the body; this distinction of body and soul, which occasionally grows into an out-and-out opposition of a lower and higher nature, is a troublesome factor in Plato's thought, though he is never committed to all the implications of once for all accepting it. Now in the field of politics, the positive law—law as it actually exists and is practised by men in an actual community—must be counted on the side of the senses and the inclinations. This was perhaps more obvious to a Greek than it is now, since Greek law was more completely a matter of use and wont than is the case where there exist a professional judiciary and the elements of a more or less scientific jurisprudence. But in any case the wisdom of the law is the wisdom of experience, feeling its way from precedent to precedent, making its rules to fit cases as they arise and never arriving at a very clear-cut knowledge of its principles. In short, it is quite different from what Plato conceived an art to be—the self-conscious application of scientifically ascertained causes to produce a clearly foreseen end. The problem was inherent in the contrast of nature and convention from which he started. For if the law belongs to convention (in Greek the words are the same) and cannot be ruled out as a factor in government, how can institutions ever be got on a rational basis where they are sure to realize the maximum natural good?

This is no antiquarian problem even to-day. How is a planned and managed society to make its peace with such enormous psychological forces as those represented by the genius of the Roman Law or the

English Common Law? The ordinary business of life, its everyday valuations and expectations, goes on in a matrix of use and wont which changes indeed but changes slowly, and which has never been planned or even envisaged as a whole, precisely because it is the matrix in which planning and valuation go on. In the mass it is not irrational but non-rational, though parts of it are continually coming to the front as precisely the irrational forces of mere convention or custom which stand in the way of any intelligent modification of the existing order. Is the customary basis of life—the habitual valuations and ideals by which men regulate their personal ambitions and their dealings with other men—to be interpreted as the enemy of intelligence and the great obstacle in the way of an art of living and governing? In effect this is the assumption behind the ideal state of the *Republic*, and that presumption forced Plato to become a rebel against the most cherished political ideal of the state which he desired to save. But if use and wont are not the great enemy, if convention is not the opposite of nature, how can the two be interpreted as supplementing one another? Can a man serve two masters? Or must he not hold to one and despise the other? Plato had learned from Socrates—and he never changed his mind—that he must hold to reason, but he became less certain that he must despise convention. And this is the problem of his later political theory, the problem of the place that must be assigned to law in the state.

THE GOLDEN CORD OF THE LAW

It is the emergence of this problem that can be seen in the *Statesman*. The dialogue is not, indeed, primarily a political work but an exercise in definition, the statesman being the subject-matter with which Plato chose to work, but the choice was hardly an accident. It is true also that the conclusion reached is that the statesman is a kind of artist whose chief qualification is knowledge. The figure used is that of the shepherd who has the control and management of a human flock, or more specifically the head of a household who directs his family for the good of all the members. This argument, it should be noted in passing, forms the starting-point of Aristotle's *Politics*, which opens with an attempt to show that the household and the state are distinct kinds of groups and that the family is, therefore, not a fair analogue for civil government. The issue is broader than it seems, and it became traditionally a bone of contention between the defenders of absolute government on the one hand and of liberal government on the other. The question, of course, is whether subjects shall be assumed to be dependent upon rulers, as children must be dependent upon their parents, or whether they shall be assumed to be responsible and self-governing. The important point, however, is not so much the sense in which Plato answered the question as the fact that he discussed it. The *Republic*

had assumed that the statesman is an artist who has the right to rule because he alone knows what is good. In the *Statesman* the question is canvassed and the assumption of the *Republic* is made the subject of an elaborate definition.

The definition is backed up by a strong argument in favour of political absolutism, in case the ruler is really an artist at his work:

> Among forms of government that one is pre-eminently right and is the only real government, in which the rulers are found to be truly possessed of science, not merely to seem to possess it, whether they rule by law or without law, whether their subjects are willing or unwilling. . . .[1]

It is indeed a 'hard saying' that government should be carried on without law, but law has to deal roughly with average cases and it is preposterous that a really expert ruler should thus have his hands bound, just as it is preposterous that a physician should be forced to prescribe by the book, if he knows enough about medicine to have written the book. The argument is that by which enlightened despotism has been justified from Plato's day to our own. If people are forced, "contrary to the written laws and inherited traditions, to do what is juster and nobler and better than what they did before,"[2] it is absurd to say that they are ill-used. For not many men can be expected to know what is good for the state. The assumption of the *Republic* is thus made explicit and its conclusion is fully accepted. In the ideal state the consent of subjects is no part of the ruler's equipment, since the subject's liberty according to the customs and traditions of the law can only work to hamper the free artistry of the ruler who knows his art.

And yet Plato is not quite willing to take all the consequences of his conclusion, or at least he is well aware that there is another side to the matter. This is apparent from the fact that his definition of the statesman draws a sharp distinction between the king and the tyrant upon precisely the point at issue. A tyrant rules by force over unwilling subjects, while the true king or statesman has the art of making his rule voluntary.[3] There is no way in which the two positions can be made compatible, but it is apparent that Plato is not willing to abandon either. It is not unjust to force men to be better than their traditions, and yet he cannot conquer the Greek detestation of government that has to depend frankly upon force. The passage recalls the eloquent denunciation of tyranny and the tyrant in Books VIII and IX of the *Republic*, not least because of the tyrant's utter lack of piety and reverence towards all normal human relations.

The classification of states which Plato includes in the *Statesman* shows also that he has moved some distance from the position taken in the *Republic*. The two noticeable points are, first, that the ideal state is

[1] *Statesman*, 293*c*; H. N. Fowler's trans. [2] 296*c–d*. [3] 276*e*.

set off definitely from the class of possible states and, second, that democracy is given a more favourable place than in the *Republic*. In the earlier work, where little or no attention is given to an effort to classify, the ideal state is placed at the top and actual states are arranged as successive degenerations the one from the other. Thus timocracy, or the military state, is a corruption of the ideal state; oligarchy, or government by the rich, is a corruption of timocracy; democracy arises by the corruption of oligarchy; and tyranny, which is at the bottom of the list, is a corruption of democracy. In the *Statesman* a more elaborate classification is attempted. The ideal state, or a pure monarchy ruled by the philosopher-king, is 'divine' and, therefore, too perfect for human affairs. It is distinguished from all actual states by the fact that in it knowledge rules and there is no need for law. It is the state of the *Republic* now definitely relegated to its place as a "model fixed in the Heavens" for human imitation but not for attainment. The classification of actual states is reached by crossing two classifications on each other. The traditional threefold division is subdivided in each of its parts into a lawless and a law-abiding form. In this way Plato reaches the sixfold classification, of three law-abiding states and their corresponding lawless corruptions, which Aristotle afterwards adopted in the *Politics*. Thus the rule of one yields monarchy and tyranny; the rule of a few, aristocracy and oligarchy; while for the first time Plato recognizes two types of democracy, a moderate and an extreme form. More striking still, he now makes democracy the best of the lawless states, though the worst of the law-abiding states. Both forms of democracy are, therefore, better than oligarchy. Evidently Plato has moved towards the position later taken in the *Laws*, in which the second-best state is described as an attempt to combine monarchy with democracy. It is a tacit admission that in the actual state the factors of popular assent and participation cannot be overlooked.

Plato's new theory, then, is to be frankly a second-best, involving the unsatisfactory contrast of the heavenly with the earthly city. The available stock of human intelligence is not great enough to make the philosopher-king a possibility. The humanly best solution, therefore, is to rely upon such wisdom as can be embodied in the law and upon the natural piety of men towards the wisdom of use and wont. The bitterness with which Plato accepts this compromise is apparent in the irony with which he remarks that now the execution of Socrates must be justified.[1] The state, with its inherited law, must be conceived as somehow an imitation of the heavenly city. At least there can be no doubt that law is better than caprice and the piety of the law-abiding ruler than the arbitrary will of a tyrant, a plutocracy, or a mob. Nor is it to be doubted that law is in general a civilizing force without which, human nature being what it is, man would be the worst of

[1] *Statesman*, 299*b*–*c*.

savage beasts. And yet this saying, so suggestive of Aristotle, is for Plato an act of faith for which his philosophy, in so far as it contrasts knowledge and opinion, can offer no real justification.

In one of the most striking passages of the *Laws* he does not hesitate to say that it is an act of faith:

> Let us suppose that each of us living creatures is an ingenious puppet of the gods, whether contrived by way of a toy of theirs or for some serious purpose—for as to that we know nothing; but this we do know, that these inward affections of ours, like sinews or cords, drag us along and, being opposed to each other, pull one against the other to opposite actions; and herein lies the dividing line between goodness and badness. For, as our argument declares, there is one of these pulling forces which every man should always follow and nohow leave hold of, counteracting thereby the pull of the other sinews: it is the leading-string, golden and holy, of "calculation," entitled the public law of the State; and whereas the other cords are hard and steely and of every possible shape and semblance, this one is flexible and uniform, since it is of gold. With that most excellent leading-string of the law we must needs co-operate always; for since calculation is excellent, but gentle rather than forceful, its leading-string needs helpers to ensure that the golden kind within us may vanquish the other kinds.[1]

The state of Plato's later theory, then, is to be held together by the "golden cord of the law" and this implies that its ethical principle of organization is different from that in the *Republic*. The law is now, so to speak, the surrogate for that reason which Plato had sought to make supreme in the ideal state and which he still regarded as the supreme force in nature. The chief virtue in the ideal state had accordingly been justice, the division of labour, and the specialization of functions which puts every man in his proper place and 'gives him his due' in the sense that he is enabled to bring all his faculties to their highest development and allowed to put them to the fullest use. In the state of the *Laws* wisdom is crystallized—perhaps one might even say frozen—in the law; no such flexible adjustment of the individual to the state is possible, but the regulations made by the law are assumed to be the best possible 'on the whole.' Consequently the supreme virtue in such a state is temperance or self-control, which means a law-abiding disposition or a spirit of respect towards the institutions of the state and a readiness to subordinate oneself to its lawful powers.

In the early books of the *Laws* Plato criticizes pretty sharply those states, like Sparta, which have adopted the fourth virtue, courage, as the chief end of their training and so have made all civic virtue subordinate to military success. The estimate of Sparta is distinctly less favourable than that implied by the account of the timocracy in the *Republic* and is outspoken in its condemnation of the futility of war as an end for states. The end is harmony, both in domestic and foreign relations, and short of the perfect harmony which would issue from specialization of functions in the ideal state, its best guarantee is

[1] *Laws*, 644*d*–645*a*; R. G. Bury's trans.

obedience to law. The state of the *Laws*, therefore, is a state constructed upon temperance or moderation as its chief virtue and seeking to achieve harmony by fostering the spirit of obedience to law.

THE MIXED STATE

It is evident, then, that Plato requires a principle of political organization designed to bring about this desired result, one which shall play the part for his later theory that the division of labour and the division of citizens into three classes had played in the *Republic*. In point of fact he discovered[1] a principle which passed into the later history of political theory and succeeded in gaining the adherence of the majority of thinkers who dealt with the problem of organization over a period of many centuries. This was the principle of the 'mixed' state, which is designed to achieve harmony by a balance of forces, or by a combination of diverse principles of different tendency in such a way that the various tendencies shall offset each other. Stability is thus a resultant of opposite political strains. This principle is the ancestor of the famous separation of powers which Montesquieu was to rediscover centuries later as the essence of political wisdom embodied in the English constitution. In the case of Plato the mixed state sketched in the *Laws* is said to be a combination of the monarchic principle of wisdom with the democratic principle of freedom. It cannot be said, however, that he succeeded in making the combination which he had in mind or even that he always remained faithful to the ideal of the mixed constitution. Plato's allegiance was hopelessly divided, and in the end he reverted to the more congenial line of thought already developed in the *Republic*.

Nevertheless, his manner of introducing and defending the principle of the mixed state was in the highest degree significant for the later development of the study. The *Laws* deals with actual states. Plato accordingly sees that the method of free logical or speculative construction which he had consciously adopted in the *Republic* is out of place. The problem concerns now the rise and fall of states and the actual rather than the ideal causes of their greatness and decay. In the third book of the *Laws*, therefore, Plato makes the first suggestion of the innumerable attempts at a kind of philosophic history, which shall trace the development of human civilization, mark its critical stages, note the causes of progress and decay, and by analysis of the whole derive the laws of political stability which the wise statesman will observe in order to control and direct the changes that beset human society. He remarks, in a passage that suggests Aristotle, that human life is con-

[1] Possibly Plato did not discover the mixed state. See Aristotle's reference to other theories of mixed states (*Politics*, 1265*b*, 33) which may refer to earlier writers. The *Laws* is at any rate the earliest extant form of the theory.

trolled by God, chance, and art, and art must co-operate with occasion.[1] It is true that Plato's mythological history contained nothing suggesting canons of accurate investigation. And yet this suggestion in the *Laws*, that the study of politics is to be attached to the history of civilization, had more possibilities of fruitfulness than the analytic and deductive method which governed the *Republic*. It formed the beginning of the authentic tradition of social studies and in particular of the mode of investigation which was to be taken up and perfected by Aristotle.

The plan of Plato's philosophic history of the race is not very clear-cut, because it has more than one purpose and combines more than one principle. In the first place it utilizes what was doubtless the current Greek conception of the direction in which their own institutions had developed. In the beginning men lived as herdsmen in solitary families, lacking the arts that use the metals, and also the social distinctions and many of the vices of a civilized life. Plato imagines it to have been a kind of 'natural' age, in which men lived at peace, since the causes of war that mark a more ambitious society had not yet appeared. Already in Plato the "state of nature"—that long-drawn myth of later political philosophers—has made its appearance. As men increase in numbers, and as agriculture grows and new manual arts are devised, families are gathered in villages, and finally statesmen arise who unite the villages into cities. It is this line of evolution that Aristotle used in the opening chapters of the *Politics* to mark off the distinctive function of the city as the bearer of the possibilities of a civilized life.

Plato has, however, at least two other purposes, the one somewhat incidental and the other more closely connected with the emergence of the mixed constitution. Incidentally he points his criticism of Sparta by tracing its downfall to its exclusively military organization, since "ignorance is the ruin of states." But what he mainly wishes to do is to show how the arbitrary power of monarchy and the tyranny that goes with it has been a cause of decay, as exemplified especially in Persia, and how an unbridled democracy at Athens ruined itself by an excess of liberty. Either might have been prosperous had it been content to remain moderate, to temper power with wisdom or liberty with order. It is the extreme in both cases that proved ruinous. Here, then, is the principle upon which a good state must be formed. If not a monarchy it must at least contain the principle of monarchy, the principle of wise and vigorous government subject to the law. But equally, if not a democracy, it must contain the democratic principle, the principle of freedom and of power shared by the masses, again of course subject to law.

The argument may be generalized. Men had admitted historically several claims to power—the right of parents over children, of age over

[1] *Laws*, 709*a–c*.

youth, of freemen over slaves, of well-born over base-born, of strong over weak, and of rulers chosen by lot over other citizens[1]—some incompatible with others and hence the cause of factions. In Plato's opinion, of course, the only 'natural' claim to power is that of the wise over the less wise, but this belongs to the ideal state. In the second-best state the problem is to select and combine these admitted claims in order to get on the whole the most law-abiding rule. In effect, this means some approximation to wisdom by favouring age, good birth, or property, which may be taken perhaps as *prima facie* symptoms of better than average ability, with some concession to the lot for the sake of democracy. This Plato describes, not very aptly, as a mixture of monarchy and democracy.

The founding of a city to meet these specifications evidently requires attention to the underlying physical, economic, and social factors upon which the political constitution depends, since Plato's mixed state is not a balance of merely political forces. He begins accordingly by discussing the geographical situation of the city and the conditions of climate and soil which are most favourable. Here again he introduced what became a favourite and, indeed, almost a traditional part of the political theory of the philosophic historian, the influence of which was immediate, as may be seen in Aristotle's remarks preparatory to sketching the best state.[2] The best site is not, Plato thinks, upon the coast, because of the corruptions introduced by foreign commerce, and more especially because foreign trade means a navy, and a navy means power for the democratic masses. This view is built upon the history of Athens, and the condemnation of the abuses of naval power is a companion piece to the earlier condemnation of the abuse of military power by Sparta. The ideal is a mainly agricultural community, on a soil that is self-sufficing but rugged, since this is the nurse of the hardiest and most temperate kind of population. This recalls the admiration which many theorists of the eighteenth century felt for the Swiss and shows the same distrust of commercialism and industrialism. He believes also that common race, language, law, and religion are desirable, provided they do not give too great a weight to custom.

SOCIAL AND POLITICAL INSTITUTIONS

Of all social institutions that which is politically most significant is the ownership and use of property. This had been Plato's view in the *Republic*—though there he had tried to make a state that would put education into first place—and it is doubly true where he is trying to deal with actual states. In the *Laws* he makes no secret of the fact that he still thinks communism the ideal arrangement but too good for

[1] 690*a–d*. Cf. the similar list of claims in Aristotle's *Politics*, 3, 12–13, 1283*a*, 14 ff.
[2] *Politics*, Bk. VII (the traditional arrangement of books).

human nature. Accordingly he concedes to human frailty the two chief points and leaves private ownership and the private family standing. He still retains his plan for the equal education of women and for their sharing in military and other civic duties, though he now says nothing of their holding office. Permanent monogamous unions—with an intolerable amount of public supervision—are accepted as the lawful form of marriage. With his concession of the private ownership of property, Plato unites the most stringent regulation of its amount and use, following in general the regulations in effect at Sparta. The number of citizens is fixed at 5040 and the land is divided into an equal number of allotments, which pass by inheritance but can be neither divided nor alienated. The produce of the land is to be consumed in common at a public mess. Property in land is therefore equalized. The cultivation of the land is to be done by slaves, or possibly a more descriptive word would be serfs, who pay a rental in the form of a share of the produce.

Personal property, on the other hand, is permitted to be unequal, but its amount is limited; that is, Plato would prohibit to any citizen the ownership of personal property in excess of four times the value of a lot of land.[1] The purpose is to exclude from the state those excessive differences between rich and poor which Greek experience had shown to be the chief causes of civic contention. In fact, however, the use of personal property is restricted as stringently as its amount. Citizens are not to be permitted to engage either in industry or trade, to have a craft or a business. All these activities, in so far as they cannot be dispensed with, are to be in the hands of resident aliens, who are freemen but not citizens. The state is to have only a token-currency (perhaps like the iron money of Sparta); the taking of interest for loans is prohibited; even the possession of gold and silver is forbidden. The citizen's 'ownership' of his property is made by every restriction that Plato can think of strictly a Barmecide feast.

Analysis of the social arrangements described in the *Laws* shows that Plato has not really abandoned the division of labour which, in the *Republic*, he had offered as the basic principle of all society. He has merely offered a new division of labour, replacing the three classes of citizens in the earlier theory. The new division is broader in that it applies to the whole population of the state but it is just as exclusive. Thus agriculture is set down as the special function of the slaves, trade and industry as that of a class of freemen who are not citizens, while all political functions are the prerogative of the citizens. It is evident also that this plan, like the one in the *Republic*, gives up the fundamental problem instead of solving it. The problem is one of participation; as Pericles had said in the Funeral Oration, to find a way by which the mass of men can attend to their private affairs and yet have a hand in

[1] 744*e*.

the public business. Nominally this is the solution that Plato is seeking, but what he arrives at is a state in which citizenship is frankly restricted to a class of privileged persons who can afford to turn over their private business—the sordid job of earning a living—to slaves and foreigners. And this is what the democracy of Pericles' day emphatically was not. The lines of class-cleavage in the *Republic* are less overtly significant than those in the *Laws*, for the former were lines between citizens, even if Plato had not thought the problem through very carefully. In the *Laws* the economic part of the population is not composed of citizens at all, and the state is therefore based frankly on economic privilege. This is none the less true because the kind of privilege that Plato prefers is security rather than wealth.

It is unnecessary to go into the details of the political constitution which Plato erects upon his social system. He provides for the main kinds of institutions—town-meeting, council, and magistrates—which existed in every Greek city. The point to be noted is the way in which he tries to carry out the idea of a mixed constitution. The mode of choosing magistrates is by election—according to Greek ideas an aristocratic method—and the duties of the general assembly of citizens are practically exhausted in these elections. The chief board of magistrates—called now by Plato the "guardians of the law" instead of guardians—is a group of thirty-seven, chosen by a threefold election consisting of a nominating ballot by which three hundred candidates are selected, a second ballot by which a hundred are selected from the three hundred, and a final ballot by which thirty-seven are selected from the hundred. But the most characteristic bit of electoral machinery is that by which the council of 360 is chosen. This plan is frankly devised to weight the votes of the better-to-do. The citizens are divided into four classes according to the amount of their personal property, a device which Plato adopted from the Athenian constitution introduced by Solon and antedating the democracy. Since personal property may not exceed four times the value of a lot of land, there are four property-classes, the lowest class being composed of those whose personal property does not exceed the value of their land, the next of those above this amount but not exceeding twice the value of their land, and so on. Presumably the lowest class would be much the most numerous, and the highest much the smallest, yet Plato assigns to each class one-fourth of the members of the council,[1] much as the former Prussian constitution allocated the choice of electors for members of the chamber of deputies to three groups each of which paid one-third of the taxes. He further weights the votes of the more opulent citizens by providing a penalty for non-voting which does not apply to the lowest property-classes. The system of property-classes has an effect

[1] 744*e*; 756*b*–*e*; cf. the Servian Constitution at Rome described by Cicero, *Republic*, Bk. II, 22, 39–40.

on the constitution also, because certain offices can be filled only from the highest group or groups. In the case of the council there is only one concession to democracy: the number of persons elected is double the number of places to be filled and the final choice is made by lot.

It is rather incomprehensible that Plato should have regarded this constitution, the practically effective part of which is surely the system of property-classes, as a combination of monarchy and democracy. The concession to democracy was certainly very slight and was grudgingly made "on account of the discontent of the masses." Moreover, Aristotle, at least, thought that there was no element of monarchy whatever in the constitution described in the *Laws*. "It is nothing but oligarchy and democracy, leaning rather to oligarchy."[1] It is true that what Plato intends is to secure the preponderance of the law-abiding elements and an equality proportioned to merit, but the effect of his constitution is to give the preponderance to those who have the most personal property. Yet he himself says that a niggardly man, who is certainly not good, will probably be richer than a good man who likes spending for noble purposes.[2] It is not clear, therefore, that he would have agreed with Aristotle, who also used the property-qualification for his middle-class state, in believing that the well-to-do are on the average better than the poor. It is a fact also, as has been pointed out, that in the *Statesman* he places even the lawless democracy higher than the oligarchy. It is impossible to make Plato's plan of government square with his intentions. Apparently when he came to constitution-making he found that differences of property are overt and usable, while differences of virtue are not.

EDUCATIONAL AND RELIGIOUS INSTITUTIONS

It is unnecessary to say much about Plato's later plan of education, which still occupies a great share of his attention in the *Laws*. The general outline of the curriculum, as including music and gymnastic, remains very similar to that in the *Republic*; his distrust of the poets still issues in the most rigorous censorship of literature and art; the education of women equally with men remains an important part of the plan; and the education of all citizens is still compulsory. The changes are chiefly that he gives more attention to the organization of education and, since the whole state is no longer an educational institution, that he is obliged to consider the articulation of the system of education with the rest of government. In respect to the first it is noteworthy that he now undertakes to outline a system of publicly regulated schools with paid teachers to provide a fully outlined course of instruction for the elementary and secondary grades. In respect to the relations of this system to the state, he makes the magistrate who has charge of the

[1] *Politics*, 2, 6; 1266*a*, 6.

[2] 743*a*–*b*.

schools the chief of all the magistrates. The theory of education in the *Laws*, unlike that of the *Republic*, is the theory of a system of educational institutions.

A similar inclination to institutionalize appears in Plato's account of religion and its relation to the state. Perhaps it was a sign of old age that he should have showed so much more interest in religion, a subject which he had passed over with scarcely more than a reference in the *Republic*. Certainly the rather extended development of religious law in the tenth book of the *Laws*, while not without the impressiveness that goes with intense conviction, is the most lamentable thing that his genius produced. Religion, from the point of view of the *Laws*, must be subject to the regulation and supervision of the state, just as education is. Consequently Plato forbids any kind of private religious exercises and enacts that rites may be performed only in public temples and by authorized priests. In this he is influenced partly by his dislike of certain disorderly forms of religion to which, as he remarks, hysterical persons and especially women are prone, and partly by the feeling that a private religion withdraws men from their allegiance to the state. His regulation of religion does not stop with ceremonial. He has become convinced that religious belief is closely related to moral behaviour or, more specifically, that certain forms of disbelief are definitely of an immoral tendency. Accordingly he thinks it necessary to provide religion with a kind of creed and the state with a law of heresy for the punishment of disbelievers. The creed is simple. What it forbids is atheism, of which Plato distinguishes three kinds: denial of the existence of the gods, denial that they concern themselves with human conduct, and the belief that they are easily placated for a sin committed. Imprisonment and, for the worst cases, death are the penalties attached to atheism. These proposals are strongly out of keeping with the practice of the Greeks and give to the *Laws* the bad pre-eminence of being the first reasoned defence of religious persecution.

The *Laws* closes on a note which is entirely out of keeping with the purpose which Plato has been following and with the state which he has sketched in accordance with that purpose. In the last few pages he adds to the state another institution, barely mentioned before, which not only fails to articulate in any way with the other institutions of the state, but also contradicts the purpose of planning a state in which the law is supreme. This Plato calls the Nocturnal Council—a body composed of the ten eldest of the thirty-seven guardians, the director of education, and certain priests chosen specially for their virtue. This Council is quite outside the law and yet is given a power to control and direct all the legal institutions of the state. Its members are supposed to have the knowledge needed for the salvation of the state, and Plato's final conclusion is that the Council must first be founded and

the state placed in its hands. It is evident that the Nocturnal Council stands in the place of the philosopher-king of the *Republic*, and that its inclusion in the *Laws* is a flagrant violation of loyalty to the second-best state. But it is not quite the philosopher-king. Coming as it does after the creation of a crime of heresy and a class of authorized priests, there is a disagreeable flavour of clericalism about the Nocturnal Council which is heightened by the evidently religious nature of the wisdom which Plato imputes to its members.

THE "REPUBLIC" AND THE "LAWS"

If Plato's political philosophy be considered as a whole and in relation to the immediate development of the subject, the theory of the state contained in the *Republic* must be regarded as having made a false start. What the *Republic* supplied to the theory of the city-state was a consummate analysis of the most general principles underlying society —its nature as a mutual exchange of services in which human capacity is developed equally to the end of personal satisfaction and of achieving the highest type of social life. In the *Republic*, however, this conception was developed almost wholly in terms of the Socratic doctrine that virtue is knowledge of the good, and knowledge was conceived upon the analogy of the exact, deductive procedure of mathematics. For this reason Plato thought of the relation between rulers and subjects as a relation between the learned and the ignorant. This in turn resulted in eliminating law from the state, since there was no place in Plato's theory of knowledge at this stage of his thought for the gradual growth of wisdom through experience and custom. Yet the omission of law falsified the moral ideal of free citizenship which was the very essence of the city-state.

The effort in Plato's later philosophy to restore law to its place in the state was always in some degree half-hearted and inconclusive, as was indicated by the unsatisfactory compromise which made him describe the later version as only a second-best. The real difficulty was that the revision called for a complete reconstruction of his psychology to make a significant place for habit, and of his theory of knowledge to make a place for experience and custom. Yet it was the study of the state in the *Laws* that suggested the nature of the revisions required. For here Plato turned to a really careful analysis of actual institutions and laws, and suggested the attachment of such studies to history. In the *Laws* also he suggested the principle of balance—of a mutual adjustment of claims and interests—as the proper means for forming a constitutional state. Far more than the abstract type-state of the *Republic*, this was a serious attack upon the problem of the city-state—the conciliation of the interests of property with the democratic interest represented by numbers. It was from these beginnings in the *Laws* that Aristotle

started. Without abandoning the general principles stated in the *Republic*, which still provide the materials for his theory of the community, he adopted in almost every case the hints thrown out in the *Laws*, enriching them with more painstaking and more extensive examinations of the empirical and historical evidence. And in the general system of his philosophy Aristotle sought to provide a consistent body of logical principles to explain and justify the procedure which he followed.

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CHAPTER V

ARISTOTLE: POLITICAL IDEALS

About the time when Plato was asked by Dion to undertake the venture in Syracuse for the education of the young Dionysius and the improvement of Syracusan government, the greatest of Plato's students joined the Academy. Aristotle was not an Athenian but a native of Stagira in Thrace, where he was born in 384. His father was a physician, which probably contributed to the prevailing interest in biological studies that Aristotle's work shows, and had been attached in that capacity to the Macedonian court. Aristotle was probably attracted to Plato's school in the first place because it was the best place in Greece to carry on advanced studies. Once there, he remained a member of the school as long as Plato lived—a period of twenty years —and his mind received indelibly the impression of Plato's teaching. Every page of his later philosophical writing bears witness to this connection. After Plato's death in 347 Aristotle left Athens and during the next twelve years was variously employed. To this period belongs the first of his independent writing. In 343 he became the instructor of the young prince Alexander of Macedon, but one looks in vain in his political writings for any effect of his Macedonian connection upon his ideas. He seems to have lacked the imagination necessary to see the revolutionary importance of Alexander's conquest of the East, with the consequent mingling of Greek and oriental civilization. The choice of such a policy was directly contrary to everything that he must have taught his royal pupil about politics. In 335 Aristotle opened his own School in Athens, the second of the four great philosophical Schools, and during the next twelve years most of his books were written, though they probably included work begun during the earlier period. Aristotle survived his great pupil by a year; he died in Euboea in 322, after leaving Athens to escape the anti-Macedonian disturbances that followed Alexander's death.

THE NEW SCIENCE OF POLITICS

The Aristotelian writings present a problem very different from that of Plato's Dialogues. His extant works, neglecting fragments of early popular writings, were for the most part not books completed and prepared for publication. They were used in connection with his teaching,

though important parts of them were probably written before the Lyceum was opened. In fact, they were not published in their present form until four centuries after his death, but remained the property of the School and were doubtless used by later instructors. It seems probable that the twelve years of Aristotle's life as head of the Lyceum were largely occupied in directing a number of extensive projects of research, shared by his students, such as the famous investigation of the constitutional history of a hundred and fifty-eight Greek cities, of which the *Constitution of Athens* (discovered in 1891) is the only surviving example. These researches, of which the study of the constitutions was only one, were mainly historical rather than philosophical; they were genuinely empirical investigations, and in the light of them Aristotle from time to time made additions to the body of writings which he already had by him when the School was opened.

The great political treatise which goes by the name of the *Politics* cannot, therefore, be regarded as a finished book such as Aristotle would have produced had he been writing for a general public. It has been doubted, in fact, whether Aristotle himself arranged it in its existing form or whether it may not have been put together by his editors from several bodies of manuscript.[1] The difficulties lie upon the surface and could hardly be missed by any attentive reader, but the solution of them is another matter. Later editors have shifted the books about in an attempt to improve the order, but no rearrangement of the text will make a unified and finished work of the *Politics*.[2] Thus Book VII, in which Aristotle takes up the construction of an ideal state, apparently goes on from the end of Book III, while Books IV, V, and VI, dealing with actual and not ideal states, form a group by themselves. For this reason Books VII and VIII are usually put after Book III, and Books IV to VI at the end; yet there is a connection between the discussion of monarchy near the end of Book III and the discussion of oligarchy and democracy in Book IV. So far as the reading of the text goes, there are difficulties in any order, and probably Ross is right when he says that the reader might as well take it as it stands traditionally.

The best hypothesis which has so far been advanced to explain the *Politics* is that by Werner Jaeger,[3] and while this is not demonstrated, it at least offers a reasonable way of envisaging the development of Aristotle's political philosophy. According to Jaeger the *Politics* as it

[1] Thus, for example, Ernest Barker (*Political Thought of Plato and Aristotle* (1906), p. 259) believes that notes of three distinct sets of lectures are combined in the *Politics*, while W. D. Ross (*Aristotle* (1924), p. 236) calls it a "conflation of five separate treatises."

[2] References to the books by number mean the order of the manuscript; so many experiments have been tried that, beyond Books I to III, the numbers are very ambiguous. There is a table giving the order in the principal editions in Immisch's Teubner text, p. vii.

[3] *Aristoteles* (1923); Eng. trans. by Richard Robinson (1934), ch. x.

stands is Aristotle's work and not that of an editor. But the text belongs to two stages and therefore falls into two main strata. There is, in the first place, a work dealing with the ideal state, and with previous theories of it. This includes Book II, an historical study of earlier theories and chiefly notable for the criticism of Plato; Book III, a study of the nature of the state and of citizenship but intended to be introductory to a theory of the ideal state; and Books VII and VIII on the construction of the ideal state. These four books Jaeger assigns to a date not long after Aristotle's departure from Athens following the death of Plato. There is, in the second place, a study of actual states, mainly democracy and oligarchy, together with the causes of their decay and the best means of giving them stability, which makes up Books IV, V, and VI. This Jaeger assigns to a date after the opening of the Lyceum,[1] supposing that it represents a return to political philosophy after or during the investigation of the hundred and fifty-eight constitutions. Books IV, V, and VI were inserted by Aristotle in the middle of the original draft, and result in enlarging the work on the ideal state into a general treatise on political science. Finally, Jaeger believes, Book I was written last of all as a general introduction to the enlarged treatise, though it was joined hastily and imperfectly to Book II. According to Jaeger's conception, therefore, the *Politics* was intended to form a treatise on a single science, but was never subjected to the rewriting that would have been necessary to bring the parts, written as they were over a period of perhaps fifteen years, into a well-unified form.

If this hypothesis be correct, the *Politics* represents two stages in Aristotle's thought which are distinguished by the distance that he has travelled in emancipating himself from the influence of Plato, or perhaps it would be better to say, in striking out a line of thought and investigation characteristically his own. In the first he still thinks of political philosophy as the construction of an ideal state upon lines already laid down especially in the *Statesman* and the *Laws*. Plato's prevailingly ethical interest in the subject still predominates; the good man and the good citizen are one and the same, or at all events they ought to be, and the end of the state is to produce the highest moral type of human being. It is not to be supposed that Aristotle consciously abandoned this point of view, since the treatise on the ideal state was left standing as an important part of the *Politics*. At some date not far removed from the opening of the Lyceum, however, he conceived a science or art of politics on a much larger scale. The new science was to be general; that is, it should deal with actual as well as ideal forms of government and it should teach the art of governing and organizing states of any sort in any desired manner. This new general

[1] Note the reference to the murder of Philip of Macedon in 336; 5, 10; 1311*b*, 2. He puts the collection of constitutions between 329 and 326.

science of politics, therefore, was not only empirical and descriptive, but even in some respects independent of any ethical purpose, since a statesman might need to be expert in governing even a bad state. The whole science of politics, according to the new idea, included the knowledge both of the political good, relative as well as absolute, and also of political mechanics employed perhaps for an inferior or even a bad end. This enlargement of the definition of political philosophy is Aristotle's most characteristic conception.

The description of Aristotle's political theory can, therefore, be advantageously divided into two parts. The source for the first is Books II, III, VII, and VIII. The questions to be considered here are the relations of his thought to Plato's in his first attempt at an independent philosophy and especially the suggestions, in so far as they can be discerned, that presage the final step which took him quite beyond Plato. The source for the second is Books IV, V, and VI, and the questions here are his final thoughts on the kinds of government, his conception of the social forces behind political organization and change, and his description of the means with which the statesman has to work. Finally, in the opening chapters of Book I, he said his last word about the great philosophical problem upon which both he and Plato had been engaged, the distinction of nature from appearance or convention, and suggested the conception of nature to which his ripest political reflection led him.

THE KINDS OF RULE

True to a custom which he follows in works on other subjects, Aristotle begins his book on the ideal state with a survey of what other writers have written on the subject. The point of greatest interest here is his criticism of Plato, since one would expect to find the key to the differences of which he was conscious between himself and his master. The result is rather disappointing. So far as the *Republic* is concerned he is emphatic in his objections to the abolition of private property and the family. These objections have already been referred to and nothing further need be said about them. His criticism of the *Laws*, on the other hand, is difficult to interpret. It refers largely to matters of detail, and, moreover, it is sometimes astonishingly inaccurate. This is surprising in view of the fact that, in his construction of the ideal state, almost every subject discussed is suggested by the *Laws*, and there are many parallelisms (even verbal) in small points.[1] Evidently when the passage was written he did not regard it as worth while to analyse the *Laws* and state his dissent from its principles. The tone of his criticism suggests what may be the reason. Apparently he felt

[1] A considerable list of parallels is given by E. Barker, *Greek Political Theory, Plato and his Predecessors* (1925), pp. 380 ff.

about both Plato's political works, and perhaps about his philosophy in general, that they are brilliant and suggestive but too radical and speculative. They are, as he says, never commonplace and always original. But the query in his mind seems to be, Are they reliable? The general ground of his dissent is stated in a dryly humorous remark which sums up better than pages of comment the fundamental difference of temper between Aristotle and his master:

> Let us remember that we should not disregard the experience of ages; in the multitude of years these things, if they were good, would certainly not have been unknown; for almost everything has been found out, although sometimes they are not put together; in other cases men do not use the knowledge which they have.[1]

In short, Aristotle's is the soberer if less original genius. He feels that too great a departure from common experience probably has a fallacy in it somewhere, even though it appears to be irreproachably logical.

One essential difference between Plato and Aristotle is apparent in all parts of the *Politics* that have to do with the ideal state: what Aristotle calls the ideal state is always Plato's second-best state. The rejection of communism just referred to shows that the ideal state of the *Republic* was never entertained by Aristotle, even as an ideal. His ideal was always constitutional and never despotic rule, even though it were the enlightened despotism of the philosopher-king. Consequently, Aristotle accepted from the start the point of view of the *Laws*, that in any good state the law must be the ultimate sovereign and not any person whatsoever. He accepted this not as a concession to human frailty but as an intrinsic part of good government and, therefore, as a characteristic of an ideal state. The relation of the constitutional ruler to his subjects is different in kind from any other sort of subjection because it is consistent with both parties remaining free men, and for this reason it requires a degree of moral equality or likeness of kind between them, despite the undoubted differences which must exist.

This distinction between different kinds of rule is so important for Aristotle that he returns to it again and again, and it had evidently been an object of early interest with him.[2] The authority of a constitutional ruler over his subjects is quite different from that of a master over his slaves, because the slave is presumed to be different in nature, a lower sort of being who is inferior from birth and incapable of ruling himself. Aristotle admits, to be sure, that this is often not true in fact, but at all events it is the theory upon which slavery is justified. For this reason the slave is the master's living tool, to be kindly used, but still used for the master's good. Political authority differs also from

[1] *Politics*, 2, 5; 1264*a*, 1 ff. (Jowett's trans.).

[2] Cf. *Politics*, 3, 6; in 1278*b*, 31, he refers to his early popular dialogues, while only a few lines before, 1278*b*, 18, he refers to the discussion of household authority in Book I, though the subject is evidently the same.

that which a man exercises over his wife and children, though the latter is certainly for the good of the dependant as well as for that of the father. The failure to distinguish household from political authority Aristotle regarded as one of Plato's serious errors, since it led him in the *Statesman* to assert that the state is like the family, only larger. The child is not an adult and even though he is ruled for his own good, he is still not in a position of equality. The case of the wife is not so clear, but apparently Aristotle believed that women were too different in nature from men (though not necessarily inferior) to stand with them on the peculiar footing of equality which alone permits the political relationship. The ideal state, therefore, if not a democracy, at least includes a democratic element. It is "a community of equals, aiming at the best life possible"[1] and it ceases to be constitutional or genuinely political if the discrepancy between its members is so great that they cease to have the same 'virtue.'

THE RULE OF LAW

Constitutional rule in the state is closely connected, also, with the question whether it is better to be ruled by the best man or the best laws, since a government which consults the good of its subjects is also government in accordance with law. Accordingly the supremacy of law is accepted by Aristotle as a mark of a good state and not merely as an unfortunate necessity. His argument for this position is that Plato is mistaken when, in the *Statesman*, he makes government by law and government by wise rulers alternatives. Even the wisest ruler cannot dispense with law, because the law has an impersonal quality which no man, however good, can attain. The law is "reason unaffected by desire";[2] and the analogy which Plato was accustomed to draw between politics and medicine is wrong. The political relationship, if it is to permit of freedom, must be of such a kind that the subject does not wholly resign his judgment and his responsibility, and this is possible provided both the ruler and the ruled have a legal status. The 'passionless' authority of law does not take the place of a magistrate, but it gives to the magistrate's authority a moral quality which it could not otherwise have. Constitutional rule is consistent with the dignity of the subject, whereas a personal or despotic rule is not. The constitutional ruler, as Aristotle sometimes says, rules over willing subjects; he rules by consent and is quite different from a dictator. The precise moral property which Aristotle means to point out is as elusive as the consent of the governed in modern theories, but no one can doubt its reality.

Constitutional rule as Aristotle understands the expression has three

[1] 7, 8; 1328*a*, 36.

[2] 3, 16; 1287*a*, 32.

main elements: First, it is rule in the public or general interest as distinguished from a factional or tyrannous rule in the interest of a single class or individual. Second, it is lawful rule in the sense that government is carried on by general regulations and not by arbitrary decrees, and also in the vaguer sense that the government does not flout standing customs and conventions of the constitution. Third, constitutional government means the government of willing subjects as distinguished from a despotism that is supported merely by force. Though these three properties of constitutional rule are clearly mentioned by Aristotle, he nowhere examines them systematically, to find out either if the list is complete or what is the relationship between the three. He was aware that one of the properties might be absent from a government while the others were present; for example, a tyrant may act despotically and yet in the public interest, or a lawful government may be unjustly favourable to one class. But constitutional rule was never really defined by Aristotle.

The emphasis upon constitutional rule is the consequence of taking seriously the suggestion in the *Laws* that law may be regarded not as a makeshift but as an indispensable condition of a moral and civilized life. An introductory passage in the *Politics* was evidently written with one of Plato's remarkable utterances in mind: "Man, when perfected, is the best of animals, but, when separated from law and justice, he is the worst of all."[1] But this view of law is impossible unless it be supposed that there is a gradual increase of wisdom through the accumulation of experience and that this growing stock of social intelligence is embedded in law and custom. The point is of fundamental philosophical importance because if wisdom and knowledge are the prerogatives of scholars, the experience of the ordinary man never brings him more than unreliable opinion, and Plato's reasoning is unanswerable. To put the case the other way about, if Plato's philosophy is mistaken in neglecting the experience of the ages, then that experience must represent a genuine growth in knowledge, though this growth registers itself in custom rather than in science and is produced by common sense rather than by learning. Public opinion must be admitted to be not only an unavoidable force but also, up to a point, a justifiable standard in politics.

It is possible to argue, Aristotle says, that in the making of law the collective wisdom of a people is superior to that of even the wisest lawgiver. He develops the argument still farther in connection with his discussion of the political ability of popular assemblies. Men in the mass supplement each other in a singular fashion, so that by one understanding one part of a question and another another part, they all together get around the whole subject. He illustrates this by the assertion (perhaps not quite obvious) that popular taste in the arts is

[1] 1, 2; 1253*a*, 31 ff. Cf. *Laws*, 874*e*.

reliable in the long run, while experts make notorious blunders at the moment. To somewhat the same effect is his marked preference for customary as compared with written law. He is even prepared to admit that possibly Plato's plan for abolishing law would be an advantage if only the written law were at stake. But he holds it clearly impossible that the knowledge of the wisest ruler can be better than the customary law. The rigid distinction between nature and convention, with the extreme intellectualism or rationalism to which this distinction had committed Socrates and Plato, was thus broken down by Aristotle. The reason of the statesman in a good state cannot be detached from the reason embodied in the law and custom of the community he rules.

At the same time, Aristotle's political ideal was quite at one with Plato's in setting up an ethical purpose as the chief end of the state. He never changed his opinion on this point, even after he had enlarged his definition of political philosophy to include a practical manual for statesmen who have to do with governments which are very far from ideal. The real purpose of a state ought to include the moral improvement of its citizens, because it ought to be an association of men living together to achieve the best possible life. This is the 'idea' or meaning of a state; Aristotle's ultimate effort at a definition turns upon his conviction that the state alone is 'self-sufficing,' in the sense that it alone provides all the conditions within which the highest type of moral development can take place. Like Plato, also, Aristotle confined his ideal to the city-state, the small and intimate group in which the life of the state is the social life of its citizens, overlapping the interests of family, of religion, and of friendly personal intercourse. Even in his examination of actual states there is nothing to show that his connection with Philip and Alexander enabled him to perceive the political significance of the Macedonian conquest of the Greek world and of the East. The political failure of the city-state did not, in his eyes, take from it the character of an ideal.

Aristotle's theory of political ideals, therefore, stands upon ground which he had clearly occupied because of his association with Plato. It follows from an effort to adopt and take seriously the chief elements of the theory developed in the *Statesman* and the *Laws*, with such changes as were required to make that theory clear and self-consistent. This applies particularly to the distinctive feature of Plato's later theory, that law must be treated as an indispensable constituent of the state. This being true, it is necessary to take account of the conditions of human nature which make it true. Law must be admitted to include real wisdom, and the accumulation of such wisdom in social custom must be allowed for. And the moral requirements which make law necessary must be incorporated as part of the moral ideals of the state. True political rule must, therefore, include the factors of subordination

to law and of freedom and consent on the part of its subjects. These become factors not of a second-best state but of the ideal state itself.

About Aristotle's ideal state itself not much need be said. In truth his avowed purpose to construct an ideal state never eventuated, and the reader feels that the task was really little to his taste. What he does is to write a book not on an ideal state but upon the ideals of the state. The sketch of an ideal state, begun in Books VII and VIII, was apparently never finished, which is significant, especially if it be correct to suppose that these books belong to the earlier draft of the *Politics*. The good life requires conditions both physical and mental, and it is upon these that Aristotle expends his attention. The list of conditions is derived from the *Laws*. It includes specifications regarding the population needed, both its amount and character, the territory most suitable in size, nature, and situation. It is not the case that Aristotle always agrees with Plato. He is distinctly more favourable to a situation on or near the sea, for example, but the differences are matters of detail, and the list of relevant conditions is substantially that which Plato had proposed. Aside from physical conditions of the good life, the most important force in moulding citizens is, for Aristotle as for Plato, a compulsory system of education. In his general theory of education Aristotle differs from Plato, as might be expected, in allowing greater weight to the formation of good habits. Thus he places habit between nature and reason among the three things which make men virtuous. Such a change was necessary in view of the importance which custom must have in a state subject to law. Aristotle's discussion is wholly devoted to liberal education and shows, far more than Plato's, an actual contempt for the useful. A plan of higher education such as had formed so notable a part of the *Republic* is conspicuous by its absence—an omission which may, of course, be due to the fact that the book is unfinished. The government of the ideal state also suggests the *Laws*. Property is to be privately owned but used in common. The soil is to be tilled by slaves, and artisans are to be excluded from citizenship on the ground that virtue is impossible for men whose time is consumed in manual labour.

CONFLICT OF THE IDEAL AND THE ACTUAL

So far Aristotle's political ideals have been outlined without raising any questions about the discrepancies and difficulties that would be encountered if these ideals were brought into relation with the actual institutions and practices of cities. The ideal is in itself almost as deductive as Plato's and apparently it had been formed by a kind of dialectical analysis of the defects of the earlier theory. But it is obvious that discrepancies with practice and with ends actually pursued in government are much more serious for Aristotle than for Plato. The

latter had never supposed that an ideal need be embodied in practice to be valid, and he had never allowed to custom any such claim to wisdom as Aristotle's theory required. If facts fail to square with ideal truth, Plato could always say, like the mathematician or the mystic, so much the worse for facts. Aristotle, with a heavy obligation to common sense and the wisdom of the ages, is in no position to be so radical. He might be reformist but never revolutionary. The whole bent and bias of his thought must be towards the view that the ideal, while conceded to be an effective force, must still be a force within the actual current of affairs and not dead against it. The wisdom inherent in custom must, so to speak, be a guiding principle that takes advantage of such plasticity as actual conditions include to lift them gradually to a better conformation. This is the view of nature which Aristotle finally evolved as a result of his reflection upon both social and biological problems.

That Aristotle was by no means at peace with this problem, even when he wrote the treatise on the ideal state, is written large in the complexities of Book III, in which the crucial questions of the whole work are discussed. The conclusion of the book shows that it was designed as an introduction to an ideal state. Books VII and VIII, however, show that Aristotle found the carrying out of this project so unsatisfactory that he never completed it, and when the first draft was enlarged, it was not by proceeding with the sketch of the ideal state but by the insertion of Books IV to VI. These are conspicuously realistic in their purpose and tone but carry forward lines of thought that are started in Book III. It is safe to conclude that the construction of an ideal state became less and less congenial to Aristotle's mode of thought as he grew older, and also that he finally found in Book III an introduction to a line of investigation which he had not originally intended to pursue. This conclusion is borne out by the reading of Book III itself. Its complexities are due, in part at least, to the fact that an introduction to the ideal state involves, to Aristotle's mind, a rather extended study of existing kinds of states. Often he is evidently more interested in the empirical study than in the purpose that he had set himself. In short, the reasons which led Aristotle to insert Books IV to VI after Book III were sound, though presumably they were not the reasons which led him to write Book III in the first place. The plan outgrew its original scope, but it grew from interests that were present at the start.

The general nature of the difficulty which Aristotle confronts is not difficult to see. The political ideal which came to him from Plato presumed that city and citizen are strictly correlative terms. This accounts for three questions which he places at the opening of Book III: What is a state? Who is a citizen? Is the virtue of a good man the same as the virtue of a good citizen? A state is an association of men for the sake of the best moral life. The type of life which a group of men will

live in common depends upon what kind of men they are and what ends they design to realize, and reciprocally the end of the state will determine who can be members of it and what kind of life they can individually live. From this point of view a constitution is, as Aristotle says, an arrangement of citizens, or, as he says elsewhere, a kind of life, and a form of government is the expression of the kind of life which the state is designed to foster. The ethical nature of the state not only dominates but, so to speak, completely overlaps its political and legal nature. Thus Aristotle concludes that a state lasts only so long as its form of government endures, since a change in form of government would signify a change in the constitution or the underlying 'kind of life' that the citizens are trying to realize. Law, constitution, state, form of government, all tend to coalesce, since from a moral point of view they are all equally relative to the purpose which causes the association to exist.

In so far as the object is to formulate an ideal state, this is not an insuperable objection. For such a state would be dominated by the highest possible kind of life, and Plato, at least, had supposed that an understanding of the idea of the good would show what this is. But to arrive at the idea of the good first and then to use this as a standard for criticizing and evaluating actual lives and actual states was just what made Aristotle despair. If, on the other hand, one begins with the observation and description of actual states, distinctions evidently have to be made. The good man and the good citizen cannot be quite identical, as Aristotle points out, except in an ideal state. For unless the purposes of the state are the best possible, their realization will require a kind of life in the citizens which falls below the best possible. In actual states there must be different kinds of citizens with different kinds of 'virtue.' Similarly, when Aristotle defines the citizen as one who is eligible to take part in the assembly and to serve on juries—a definition based upon Athenian practice—he is obliged to point out at once that the definition will not fit any but a democratic state. Or again, when he concludes that the identity of the state changes with its form of government, he has to add a warning that the new state is not therefore justified in defaulting the debts and other obligations contracted by the previous state. Distinctions must in practice be made. A constitution is not only a way of life for the citizens but also an organization of officers to carry on public business, and therefore its political aspects cannot be forthwith identified with its ethical purpose. Merely to observe these complexities is to feel a difficulty about the construction of an ideal state to serve as a standard for them all.

A similar sense of the complexities of his problem is apparent when Aristotle passes on to discuss the classification of forms of government. Here he adopts the sixfold classification already used by Plato in the *Statesman*. Having distinguished constitutional from despotic rule by

the principle that the former is for the good of all and the latter for the good of the ruling class only, he crosses this division upon the traditional threefold classification and thus gets a group of three true (or constitutional) states—monarchy, aristocracy, and moderate democracy (polity)—and three perverted (or despotic) states—tyranny, oligarchy, and extreme democracy or mob-rule. The only difference between Plato's treatment and Aristotle's—and it appears to be unimportant—is that the former describes his true states as law-abiding, while the latter describes them as governed for the general good. In view of his analysis of what constitutional government means, Aristotle must have thought that the two descriptions came to nearly the same thing. No sooner does he complete the sixfold classification, however, than he points out that there are serious difficulties about it. The first of these is that the popular classification by the number of rulers is superficial and does not say, except by accident, what those who use it mean. What everybody means by an oligarchy is a government by the rich, just as a democracy is a government by the poor. It is true that there are many poor and few rich, but this does not make the relative numbers descriptive of the two kinds of state. The essence of the matter is that there are two distinct claims to power, one based upon the rights of property and the other upon the welfare of the greater number of human beings.

CONFLICTING CLAIMS TO POWER

This correction of the formal classification carries Aristotle a long way, for it raises the question, What are the justifiable claims to power in the state? And if there are more than one, how can they be adjusted to each other in such a way as to save them all? Similar questions, as has been said, had already presented themselves to Plato.[1] These questions, be it noted, do not really concern an ideal state—and Plato had not supposed that they did—but the relative merits of actual states, and the relative claims of various classes in the same state. Wisdom and virtue might be said to have an absolute claim to power; at least Plato had thought so, and Aristotle did not deny it. But this point is academic. The dispute is not about a general moral principle but about the way to approximate it in practice. Every one will admit, Aristotle says, that the state ought to realize the largest measure of justice possible and also that justice means some kind of equality. But does equality mean that everybody is to count for one and nobody for more than one, as the democrat supposes? Or does it mean that a man with large property-interests and perhaps a good social position and education ought to count for more than one, as the oligarch believes? Granted that government ought to be carried on by wise

[1] *Laws*, 690*a* ff.

and virtuous rulers, where must you lodge power to get wisdom and virtue, or at least the best available approximation to them?

When the question is put in this way Aristotle immediately perceives that a relative question requires a relative answer. He shows easily enough that wealth has no absolute moral claim to power, for the state is not a trading company or a contract, as Lycophron the Sophist had said. It is easy to show also that counting everybody for one is at most a convenient fiction. But, on the other hand, can it be said that property has no rights? Aristotle was convinced that Plato's venture in that direction had proved disastrous, and in any case, as he points out, a plundering democracy is no more honest than an exploiting oligarchy. Property has moral consequences and for this reason is too important to be left entirely out of the picture by anyone who is trying to be realistic. Good birth, good education, good associations, leisure —and these go in some degree with wealth—are not negligible as claims to political influence. The democrat also has something to say relatively for his claim. The number of persons affected surely is a moral consideration in estimating political consequences, and, moreover, a sober public opinion, Aristotle is convinced, often is right where professedly wise persons are wrong. The upshot of the discussion is that there are objections against every claim to power that can be advanced, and also that all the usual claims have a certain amount of merit. It is hard to see just how this conclusion can advance the construction of an ideal state, but it is also obvious that Aristotle has treated a perennial dispute in political ethics with incomparable common sense. In fact, this examination of the conflicting claims of democracy and oligarchy led Aristotle later to lay aside the search for an ideal state and to take up the more modest problem of the best form of government attainable by most states.

The conclusion that no class has an absolute claim to power reenforces the principle that the law must be supreme, since its impersonal authority is less subject to passion than men can claim to be. But Aristotle recognizes that even this, one of his most deeply-held convictions, cannot be asserted quite absolutely. For the law is relative to the constitution and consequently a bad state will be likely to have bad laws. Legality itself, then, is only a relative guarantee of goodness, better than force or personal power, but quite possibly bad. A good state must be ruled according to law, but this is not the same as saying that a state ruled according to law is good.

Apparently Aristotle believed that monarchy and aristocracy alone have any claim to be regarded as ideal states. He has very little to say about aristocracy but he treats monarchy at some length. It is precisely this discussion of a supposedly ideal state that shows clearest how little he has to say on the subject and connects most clearly with the quite realistic rediscussion of democracy and oligarchy placed in Book IV.

The monarchy ought theoretically to be the best form of government if it be assumed that a wise and virtuous king can be found. Plato's philosopher-king would come nearest to having an absolute claim to his power. But then, he would be a god among men. To allow other men to make law for a mortal god would be ridiculous, and to ostracize him would not be quite just. The only alternative is to allow him to rule. And yet Aristotle is not perfectly certain that even such a man has an indefeasible right to rule. So much importance does he attach to the equality which ought to exist between citizens of the same state that he questions whether even perfect virtue would be an exception. The problem of equality concerns every form of government, good as well as perverted. Still, Aristotle is willing to admit that monarchy would be suitable for a society in which one family was far superior to all others in virtue and political skill. The truth is that the ideal monarchy is for Aristotle perfectly academic. Except for the authority of Plato he probably would never have mentioned it. He remarks that monarchy according to law is not really a constitution at all, and if this be taken literally, the fact that good government must recognize the supremacy of law really puts the monarchy out of consideration as a true form of government. A monarchy of the ideal type would belong to domestic rather than political rule. Nothing but his acceptance of Plato's sixfold classification brings it into consideration.

When Aristotle turns to an examination of existing monarchies he drops the consideration of an ideal state entirely. Two legal forms of monarchy he knows, the Spartan kingship and the dictatorship, but neither of these is a constitution, and two kinds of monarchical constitution, the Oriental monarchy and the monarchy of the heroic age. The latter, of course, is conjectural and really outside Aristotle's experience. The Oriental monarchy is more truly a form of tyranny, though it is lawful after a barbarian fashion, since Asiatics are slaves by nature and do not object to despotic government. Substantially, therefore, actual monarchy, as Aristotle knows it, is equivalent to such government as that of Persia. However, the significance of this discussion is less in what he says about monarchy than in the fact that he distinguishes the different kinds. Evidently the sixfold classification of states had already lost its meaning for him as compared with an empirical study of the actual working of governments. It was precisely at this point that he took up again the examination of oligarchy and democracy—that is to say, Greek forms of government—in Book IV.

The reasons should now be clear why Aristotle's political ideals did not eventuate in the construction of an ideal state. The ideal state represented a conception of political philosophy which he inherited from Plato and which was, in fact, little congenial to his genius. The more he struck out an independent line of thought and investigation the more he turned towards the analysis and description of actual

constitutions. The great collection of one hundred and fifty-eight constitutional histories made by him and his students marks the turning point in his thought and suggested a broader conception of political theory. This did not mean that Aristotle turned to description alone. The essence of the new conception was the uniting of empirical investigation with the more speculative consideration of political ideals. Moral ideals—the sovereignty of law, the freedom and equality of citizens, constitutional government, the perfecting of men in a civilized life—are always for Aristotle the ends for which the state ought to exist. What he discovered was that these ideals were infinitely complicated in the realization and required infinite adjustment to the conditions of actual government. Ideals must exist not like Plato's pattern in the heavens, but as forces working in and through agencies by no means ideal.

CHAPTER VI

ARISTOTLE: POLITICAL ACTUALITIES

THE opening paragraphs of Book IV of the *Politics* show a significant enlargement of Aristotle's conception of political philosophy. Any science or art ought, he says, to cover the whole of a subject. A gymnastic trainer ought, indeed, to be able to produce a finished athlete, but he ought also to be able to supervise the physical education of those who cannot become athletes or select suitable exercises for those who need a special kind of training. The same should be true of the political scientist. He needs to know what would be the best government if there were no impediments to be overcome, in other words, how to construct an ideal state. But he should know also what is best relative to circumstances and what will succeed in any given conditions, even though it is neither the best abstractly considered nor the best under the circumstances. Finally, on the strength of this knowledge, he should be able to judge what form of government is best suited to most states and attainable without presuming more virtue and intelligence than men commonly possess. With this knowledge he can suggest the measures that will be most likely to correct the defects of existing governments. In other words, the complete art of the statesman must take governments as they are and do the best it can with the means it has. It might even divorce itself from moral considerations altogether and tell the tyrant how to succeed in tyranny, as Aristotle actually does later.

No such radical separation of politics from ethics was intended, but nevertheless the new view of the statesman's art makes it a different subject of investigation from the ethics of individual and personal morality. At the beginning of Book III of the *Politics* Aristotle had discussed the virtue of a good man and the virtue of a citizen and had treated their non-identity as a problem. In the closing pages of the *Nicomachean Ethics* he takes for granted that they are not identical and presents the problem of legislation as a branch of investigation distinct from the study of the noblest form of ethical ideal. The subject, he says, has been too much neglected, but is necessary to complete a philosophy of human nature. Significantly also he refers to his collection of constitutions as a source for studying the causes which preserve or destroy states and which bring good or bad government; it can

hardly be doubted that the proposed study is that which ended in the writing of Books IV to VI of the *Politics*.

> When these have been studied we shall perhaps be more likely to see with a comprehensive view, which constitution is best, and how each must be ordered, and what laws and customs it must use, if it is to be at its best.[1]

This discrimination of ethics and politics, which marks the beginning of the two as distinct but connected subjects of investigation, is of a piece with the astounding power of logical organization displayed by his philosophy as a whole. By virtue of this capacity, in which he far surpassed Plato, he was able to outline the main branches of scientific knowledge as they have remained even to modern times.

THE POLITICAL AND ETHICAL CONSTITUTIONS

The analysis of actual forms of Greek government undertaken in Book IV is attached to the sixfold classification of constitutions in Book III. Perhaps more truly it is connected with the treatment of monarchy in the latter part of that Book. Aristotle now refers to monarchy and aristocracy as belonging to the class of ideal states, though this does not correspond very accurately with the discussion of them in Book III, and he proposes to pass on to a close examination of oligarchy and democracy. It is commonly supposed, he says, that there is only one form of each of these, but this is a fallacy, a remark which recalls his comment on the difficulty of seeing that there are several kinds of monarchy.[2] What the practical statesman needs to know, in order to work with actual government, is how many kinds of oligarchy and democracy there are and what laws are suitable to each kind of constitution. This will enable him to tell what form of government is best for most states, what is best for a state that has to exist under some special condition, what is needed to make any given form of government practicable, and what causes make for stability or instability in different kinds of states.

The reopening of the question of classification with respect to oligarchy and democracy requires a re-examination of the general nature of the constitution. The view which had on the whole prevailed in Book III is that the constitution is an 'arrangement of citizens' or a mode of life which more or less dictates the external organization of the state. This is a normal point of view so long as the ethical aspect of the state was uppermost in Aristotle's mind. For the determining factor in any state would be the ethical values which the association of citizens was designed to realize; the moral purposes of the citizens in living together would be the essential thing that they had in common and hence, so to speak, 'the life of the state.' Aristotle had, however,

[1] *Nic. Eth.*, 10, 9; 1181*b*, 20 (Ross' trans.).

[2] 3, 14; 1285*a*, 1.

defined a constitution also as the arrangement of offices or magistracies, which is closer to a political view of the state in the modern sense. In Book IV the latter definition is restated and the constitution is distinguished from the law, which is the body of rules to be followed by magistrates in performing the duties of their offices. Aristotle also adds still a third analysis of states into social classes, or united groups smaller than the state itself, such as families, or the rich and poor, or occupational groups such as farmers, artisans, and merchants. The economic structure of the state is not spoken of as a constitution, but its influence is often decisive in determining what form of political constitution (arrangement of offices) is suitable or feasible. Aristotle compares economic classes to an animal's organs and says that there are as many kinds of states as there are ways of combining the classes necessary to support a social life.

At the outset, therefore, Aristotle has introduced into the discussion of actual states several important distinctions, which to be sure he has not made explicit but which show clearly how far he has progressed in the assessment of real political forces. In the first place, reference has already been made to the discrimination of politics from ethics. This was involved in the plan of treating the actual apart from the ideal constitution, and is marked by the greater importance given to the definition of the constitution as an arrangement of offices. He now distinguishes also the law from the political structure of the organized government. Still more important is the discrimination of political structure from the social and economic structure which lies behind it. The modern distinction between the state and society is one which no Greek thinker made clearly and adequately, and which perhaps could not be clearly made until the state was conceived as a legal structure, but Aristotle at least reached a very good first approximation to it. Moreover, he was able to use the distinction in a highly realistic fashion when he shrewdly remarked that a political constitution is one thing and the way the constitution actually works is another. A government democratic in form may govern oligarchically, while an oligarchy may govern democratically.[1] Thus a democracy with a prevailingly agricultural population may be quite changed by the addition of a large urban trading class, though the political structure of the state—the offices and the political rights of its citizens—is quite unchanged.

The use which Aristotle made of this twofold analysis of the state—into political agencies and classes united by similarity of economic interest—would have been easier to follow if he had always distinguished his use of the one from his use of the other, and if he had discriminated both from the interaction of one upon the other. In his enumeration of the kinds of democracy and oligarchy it is often hard to see what principle of classification he is following; in fact, he offers

[1] 4, 5; 1292*b*, 11 ff.

two lists of each[1] without explaining wherein the two differ, though in one he seems to be thinking mainly of the political constitution and in the other of the economic constitution. Moreover, the classification is complicated by the distinction between lawless and law-abiding governments, though this ought not to apply to oligarchy at all, and in any case would have to be regarded as a result derivative from the arrangement of offices or classes. But though the treatment is not schematic, it is substantially clear and unquestionably it represents a mastery of its subject—the internal working of the Greek city-states—such as has rarely been displayed by any later political scientist over any other form of government. Substantially the thought is as follows: There are certain political regulations—such, for instance, as qualifications for voting and eligibility to office—which are characteristic of democracy and others which are characteristic of oligarchy. There are also economic conditions—such, for instance, as the way in which wealth is distributed or the predominance of one or another economic class—which predispose a state towards democracy or oligarchy and determine what kind of political constitution will be most likely to succeed. Both the political and the economic arrangements vary in degree, some tending to a more extreme and some to a less extreme form of the two types. The possible number of combinations is large, since states may be formed not only from democratic or oligarchic elements but also from elements of both types, as, for instance, it would be if the assembly were democratically organized while the judiciary was chosen with some sort of oligarchical qualification. The way a government actually works depends in part on the combination of political factors, in part on the economic factors, and also on the way both sets of factors are combined with each other. Finally, some of the economic factors tend to produce a lawless state and others a law-abiding state, and the same is true of the political factors. Such a conclusion is hard to state in a formal classification, but it has the merit of recognizing a great mass of political and social complexity.

It will be enough to indicate how in general Aristotle follows out these lines of classification, without giving in detail all the subdivisions of oligarchy and democracy that he mentions. Thus democracies differ in their political constitutions according to their inclusiveness, and this usually follows from the way they use, or fail to use, a property qualification. There may be no qualification at all, either for voting in the assembly or for holding office, or the qualification may be lower or higher, or it may apply to some offices but not to others. On the other

[1] Of democracy, 4, 4; 1291*b*, 30 ff; 4, 6; 1292*b*, 22 ff. Of oligarchy, 4, 5; 1292*a*, 39ff; 4, 6; 1293*a*, 12 ff.

hand, a democracy may not only impose no qualification but may pay its citizens a fee (as at Athens) for jury-service or even for attending the town-meeting, which puts a premium on attendance by the poor. Democracies will differ also according to the economic structure of the state. A democracy composed of farmers may impose no qualification and yet the management of affairs may be wholly in the hands of the gentry, since the mass of people have little time and little inclination to trouble themselves with public business. Aristotle considers this to be the best kind of democracy; the people have a considerable power and hold the governing class in check by the possibility that they may use it, but so long as the rulers proceed moderately the people leave them free to do much as they think best. A very different sort of democracy results when there is a large urban population who not only have power but use it by trying to transact public business in the town-meeting. This opens an arena to the demagogues, and such a democracy is nearly certain to become lawless and disorderly. In practice it is hardly different from tyranny. The problem of a democracy is to unite popular power with intelligent administration, and the latter is not possible by a large assembly.

The kinds of oligarchy are distinguished upon the same general lines. For oligarchy a property qualification or some condition of eligibility, both for citizenship and for office, is normal, but the qualification may be higher or lower. The oligarchy may be broadly based in the population or power may be confined to a small faction. Such a faction may form a self-perpetuating corporation which fills public offices from its own ranks without even a show of election, and in extreme cases a few families, or even a single family, may have practically hereditary power. What kind of oligarchical government is possible will depend in turn upon the distribution of property. If there is a fairly large class of property owners with no great extremes of wealth, the oligarchy is likely to be broadly based, but if there is a small class of the very wealthy, government will be likely to fall into the hands of a clique. And when this happens it will be hard to prevent the abuses of factional rule. At the extreme, oligarchy, like democracy, becomes practically indistinguishable from tyranny. The problem in an oligarchy is the converse of that in a democracy: it is to keep power in the hands of a comparatively small class without allowing this class to become too oppressive to the masses, for oppression is nearly certain to breed disorder. In Aristotle's judgment aggression by the rich is more probable than aggression by the masses, and consequently oligarchy is harder to regulate than democracy. At the same time an oligarchy broadly based in a population where wealth is pretty evenly distributed may be a law-abiding form of government.

This examination of the kinds of democracy and oligarchy is later elaborated by Aristotle in a more systematic analysis of the political

constitution or political organs of government. He distinguishes three branches which are present in some form in every government. First, there is the deliberative branch, which exercises the ultimate legal power of the state in such acts as the making of war and peace, the concluding of treaties, the auditing of magistrates' accounts, and legislation. Second, there are various magistrates or administrative officers, and third, there is the judiciary. Each of these branches may be organized democratically or oligarchically, or more or less democratically or oligarchically. The deliberative body may be more or less inclusive and may exercise a larger or a smaller number of functions. The magistrates may be chosen by a larger or smaller electorate, or in more democratic governments by lot; they may be chosen for longer or shorter terms; they may be more or less responsible to the deliberative branch and may have a larger or a smaller measure of power. In the same way the courts may be popular, chosen by lot from a large panel, and may exercise powers co-ordinate with the deliberative branch itself, as at Athens, or they may be restricted in power or numbers and chosen in a more selective way. Any given constitution may be organized more democratically in one of its branches and more oligarchically in another.

THE BEST PRACTICABLE STATE

The analysis of the political factors in democracy and oligarchy has put Aristotle in a position where he can consider the question which now takes the place of the construction of an ideal state, viz., what form of government is best for most states, leaving aside special circumstances that may be peculiar to a given case and assuming no more virtue or political skill than states can usually muster? Such a form of government is in no sense ideal; it is merely the best practicable average which results from avoiding the extremes in democracy and oligarchy that experience has shown to be dangerous. This sort of state Aristotle calls the polity, or constitutional government, a name applied in Book III to moderate democracy; Aristotle would not be averse to adopting the word aristocracy (previously used in its etymological meaning for an ideal state) in those cases where the constitution leans away from popular government too much to be called a moderate democracy.

In any case the distinctive feature of this best practicable state is that it is a mixed form of constitution in which elements are judiciously combined from oligarchy and democracy. Its social foundation is the existence of a large middle class composed of those who are neither very rich nor very poor. It is this class which, as Euripides had said years before, 'saves states.' For they are not poor enough to be degraded or rich enough to be factious. Where such a body of citizens

exists they form a group large enough to give the state a popular foundation, disinterested enough to hold the magistrates responsible, and select enough to avoid the evils of government by the masses. Upon such a social foundation it is possible to build a political structure drawing upon institutions typical of both democracy and oligarchy. There may be a property qualification but only a moderate one, or there may be no property qualification with no use of lot in selecting magistrates. Aristotle regarded Sparta as a mixed constitution. He was probably thinking also of the government attempted at Athens in 411—in reality a paper constitution—which aimed to form a citizen-body restricted to five thousand able to supply themselves with heavy armour and which in the *Constitution of Athens* Aristotle said was the best government that Athens had ever had. Like Plato, Aristotle is obliged by practical considerations to fall back upon property as a surrogate for virtue. Neither thinker believed on principle that property is a sign of goodness but both reached the conclusion that for political purposes it offers the best practicable approximation to it.

The principle of the middle-class state is balance, balance between two factors that are certain to count for something in every political system. These factors grow from the claims to power discussed in Book III but Aristotle now treats them less as claims than as forces. These two he describes as quality and quantity. The first includes political influences such as arise from the prestige of wealth, birth, position, and education; the second is the sheer weight of numbers. If the first predominates the government becomes an oligarchy; if the second, a democracy. In order to produce stability it is desirable that the constitution should allow for both and balance the one against the other. It is because this is most easily done where there is a large middle class that this kind of state is the most secure and the most law-abiding of practicable constitutions. In some respects Aristotle sees safety in numbers, because he believes in the collective wisdom of a sober public opinion and thinks that a large body is not easily corrupted. But especially for administrative duties men of position and experience are the best. A state that can combine these two factors has solved the chief problems of stable and orderly government. Undoubtedly Greek history bears out this diagnosis of the internal difficulties which the city-state had to meet. On the other hand, Aristotle has little to say about an equally pressing difficulty which the course of history in his own lifetime ought to have suggested to him—the difficulty of foreign affairs and the fact that the city-state was too small successfully to govern a world in which powers like Macedon and Persia had to be coped with.

In Book V Aristotle discusses at length the causes of revolution and the political measures by which it can be prevented, but the details may be passed over. His political penetration and his mastery of

Greek government are apparent on every page. But the theory of the subject is already apparent in the discussion of the middle-class state. Both oligarchy and democracy are in a condition of unstable equilibrium, and as a result each runs the risk of being ruined by being too much itself. A statesman whose practical problem is to govern a state of either kind has to prevent it from carrying out the logic of its own institutions. The more oligarchical an oligarchy becomes the more it tends to be governed by an oppressive faction, and similarly, the more democratic a democracy becomes, the more it tends to be governed by a mob. Both tend to degenerate into tyranny, which is bad in itself and also unlikely to be successful. The almost cynical freedom with which Aristotle advises the tyrant presages Machiavelli. The traditional tactics are to degrade and humiliate all who might be dangerous, to keep subjects powerless, and to create divisions and mistrust among them. A better way is to rule as little like a tyrant as possible, to pretend at least to an interest in the public welfare, and at all events to avoid the public exhibition of a tyrant's vices. In the long run no form of government can be permanent unless it has the support of the major political and economical forces in the state—regard being given both to quality and quantity—and for this reason it is usually good policy to gain the loyalty of the middle class. It is the extreme in any direction that ruins states. In short, if not actually a middle-class government, the state must be as like middle-class government as it can, always, of course, allowing for any special circumstances which may be decisive in a given case.

THE NEW ART OF THE STATESMAN

Aristotle's conception of a new and more general type of political science, including not only a study of the ethical meaning of the state but also an empirical study of the elements, both political and social, of actual constitutions, their combination, and the consequences which are found to follow from these combinations, represented in no sense an abandonment of the fundamental ideas which he had derived from Plato. It did represent, however, a important modification and readjustment of them. The objective is still the same in so far as it looks to an art of statesmanship able to direct political life to morally valuable ends by means rationally chosen. The state is still to realize its true meaning as a factor in a civilized life, and the discovery of this meaning is, therefore, still of vital importance. The direction of political life along the lines best adapted to give the state its true meaning is a work to be performed by intelligence; it is the subject of a science and an art, and therefore as different for Aristotle as for Plato from the mere sharpness of a designing politician, the bungling of a popular assembly, or the rhetorical cleverness of a demagogue or a Sophist.

What Aristotle did was not to abandon the ideal but to work forward to a new conception of the science and of the art based on it. Plato had believed that politics could be made the subject of a free intellectual or speculative construction by grasping once for all the idea of the good, though the writing of the *Laws* is enough to show that in the end he was forced substantially beyond this conception of the task. Aristotle's association with Plato fell in the years when this readjustment of his political thought was taking place, and in any case the native bent of Aristotle's mind would probably have forced him along a line different from that upon which Plato had started.

The method of free intellectual construction—suitable enough for a philosophy that adopted mathematics as the type of all knowledge—was, therefore, closed to Aristotle from the start. This is proved by his inability to carry out the project for a sketch of an idea state. But it was a slow and difficult task to adapt the ideals of Plato's philosophy to a different method, and this is what Aristotle had to do. The whole story of that readaptation is written in Aristotle's formulation of his own philosophical system, of which the science and art of politics was but a single chapter, though an important one. The embedding of constitutional rule in the ideals of the state—the recognition of law, consent, and public opinion as intrinsic parts of a good political life—was an important first step but one which required Aristotle to go farther. He had to go on to analyse the city-state into its political elements, to study the bearing upon these of underlying social and economic forces. And to studies such as these a speculative method was obviously inappropriate. The collection of constitutions was Aristotle's attempt to amass the data needed to deal with these problems, and the more empirical and more realistic theory of Books IV to VI was his solution of them. But a more empirical method carried with it a change in the conception of the art which it was to serve. An end outside the political process upon which a state could be modelled would no longer suffice. The statesman of Aristotle's art is, so to speak, seated in the midst of affairs. He cannot model them to his will, but he can take advantage of such possibilities as the posture of events offers. There are necessary consequences which cannot be avoided; there are the chances brought by untoward circumstances which may wreck even a good plan; but there is also art, the intelligent use of available means to bring affairs to a worthy and desirable end.[1]

For Aristotle, then, political science became empirical, though not exclusively descriptive; and the art included the improvement of political life even though this has to be done on a modest scale. It was natural that this advance in his ideas should turn his attention back to first principles and lead him to reconsider the underlying problems from which both he and Plato had started. This he did briefly in the

[1] 3, 9; 1280*b*, 17 ff.

introduction which he wrote for the completed *Politics*, the first book of the present text. Much of this book merely enlarged upon the theory of household government, including economics, and recapitulated the distinction between this and political rule. This subject was not very completely worked out, probably because the re-examination of the household brought Aristotle face to face with questions already considered in Book II as part of the criticism of communism. He never undertook the task of rewriting which would have been needed to fuse the two discussions. In the first part of Book I, however, he went back to the fundamental question of nature and convention, since for his theory as for Plato's it was necessary to show that the state has intrinsic moral value and is not merely an imposition of arbitrary force.

In order to deal with this problem, Aristotle canvasses more systematically the definition of the state, starting substantially from the same point as Plato at the beginning of the *Republic*. His procedure follows the theory of definition by genus and differentia which is developed in his logical works. The state, he says, is a kind of community. A community is a union of unlike persons who, because of their differences, are able to satisfy their needs by the exchange of goods and services. This is substantially identical with Plato's belief that the state depends upon a division of labour, but Aristotle differs from Plato because he distinguishes several species of community of which the state is only one. The object of this, of course, is to distinguish the rule of a household—over wife, children, or slaves—from political rule. Plato, in other words, had confused the genus with the species. The problem, therefore, is to determine what kind of community a state is. In Book I the discussion is so entirely levelled against Plato that Aristotle seems not quite to have developed his whole thought. Elsewhere[1] he points out that the exchange of goods by buying and selling, or merely contractual relations, makes a community but not a state, because there need be no common ruler. In Book I he stresses communities, so to speak, at the other extreme, where there is a distinction of ruler and ruled but not a constitutional or political ruler. This is illustrated by the relation of master and slave, where the latter exists wholly for the master's good. The state lies then in an intermediate position, distinguished from contract on one side and from ownership on the other. This method of definition by approximation, the discrimination of what might be called limiting cases, is frequently used by Aristotle in his scientific works. Unfortunately in the *Politics* he does not consider as systematically as might have been expected the differences between household relations other than slavery, for example, the relation between the head of a household and his wife, which he believed to be different in kind both from his relation to a slave and from the relations of a political ruler to his subjects.

[1] *Metaph.* 7, 7; 1032*a*, 12 ff.; Cf. Plato, *Laws*, 709*b*–*c*.

He does, however, propose a general principle for defining the state in contrast with the household. This is the reference to growth or historical development. "He who thus considers things in their first growth and origin, whether a state or any thing else, will obtain the clearest view of them."[1] Aristotle thereupon appeals to the traditional history of the Greek city, which Plato had already used in the *Laws* to introduce the construction of the second-best state. Thus history shows that the family is the primitive kind of community, brought into being by such elemental needs as those for shelter, food, and the propagation of the race. So long as men have progressed no farther than to satisfy these needs, they live in detached families under a patriarchal government. A higher stage of development is represented by the village, which is a union of several families, and a still higher by the state, which is a union of villages.

The growth is not, however, merely in size. At a certain point a community arises which is different in kind from the more primitive groups. It becomes what Aristotle calls 'self-sufficing.' This refers in part to its territory and its means of economic support, and also to its political independence, but not primarily to these. What is distinctive about the state is, for Aristotle, that it first produces the conditions necessary to a really civilized life. It originates, as he says, in the bare needs of life, but it continues for the sake of a good life. To this end it is as important that the state should not be too large as that it should not be too small. For Aristotle never contemplates any social unit other than the Greek city-state as fulfilling the needs of a civilized life. It includes the household as one of its necessary elements—and Plato was in error in desiring to abolish the more primitive unit—but it is a more developed and therefore a more perfect kind of community. This is shown by the fact that the needs which the state satisfies are the more typically human needs. Even the family, which in its most primitive form depends on physical needs that man shares with all animals, requires capacities definitely beyond those which unite the gregarious animals. For it requires speech and the power to distinguish right from wrong, which are characteristics only of the rational animal. But the state gives the opportunity for a higher development even of these rational powers. Man is distinctively the political animal, the only being that dwells in cities and subjects himself to law and produces science and art and religion and all the many-sided creations of civilization. These represent the perfection of human development and they are attainable only in civil society. To live without it a being must be either a beast or a god; that is, either below or above the medium plane on which humanity lives. In their highest form, as Aristotle believes —dominated as he is by a belief in the unique human capacity of the Greeks—the arts of civilization are attainable only in the city-state.

[1] 1, 2; 1252*a*, 24 f.

NATURE AS DEVELOPMENT

The meaning and value of the state arise from the fact that, as Edmund Burke said, it is a partnership in all the sciences and all the arts, and this is Aristotle's final argument against those who assert that law and morals are matters of convention. The argument as Aristotle uses it represents a careful redefinition of the term 'nature,' such that it can be adapted to every branch of science and made the general principle of a philosophy. It is a practical rule for the guidance of investigation that the simplest and most primitive comes first in time, while the more complete and perfect comes only later after growth has taken place. The later stage, however, shows more adequately than the earlier what the true 'nature' of a thing is. This rule Aristotle had found useful on a large scale in his biological studies. A seed, for example, discloses its nature only as it germinates and as the plant grows. The physical conditions, such as soil and heat and moisture, are necessary, but even though they are identical for two different seeds—like an acorn or a mustard seed—the resulting plants are quite different. Aristotle infers that the effective cause of the difference lies in the seeds; each plant contains its own 'nature' which displays itself as it gradually unfolds and becomes explicitly what the seeds are implicitly. The same kind of explanation applies also to the growth of the community. In its primitive form, as the family, it shows its intrinsic nature as a division of labour, but in its higher forms, without failing to satisfy the primitive needs, it shows itself able to give scope for the development of higher capacities which would be dormant if the family only existed. The family, Aristotle says, is prior in time but the state is prior "by nature"; that is, it is the more completely developed and, therefore, the more indicative of what the community has implicit in it. For the same reason life in the state shows what human nature intrinsically is. No one could even have guessed that the arts of civilization were possible if life had not progressed beyond the kinds of exchange needed to satisfy the primitive needs.

Aristotle's use of the word nature with reference to society has, therefore, a double significance. It is true that men are instinctively sociable because they need each other. The primitive community depends upon impulses embedded in all life, such as sex and the appetite for food. They are indispensable but they are not distinctive of human life, because they are not very different in man and in the lower animals. Human nature is more characteristically displayed in the development of those powers that belong to men alone. And since the state is the only medium in which these can develop, it is 'natural' in a sense that is in some respects the opposite of instinctive. Just as it is 'natural' for an acorn to grow into an oak, so it is natural for human nature to expand its highest powers in the state. This does not mean that the

development must inevitably take place, for the absence of the needed physical conditions will prevent the growth in both cases. Aristotle in fact believes that it is only in the very limited case of the city-state that the higher development takes place and he attributes this to the fact that only Greeks of all men possess the faculty for such a growth. Where it does take place it shows what human nature is capable of, just as a well-watered and well-nourished oak shows what a good acorn really has in it. The state is natural because it contains the possibility of a fully civilized life, but since it requires physical and other conditions for its growth, it presents an arena for the statesman's art. The application of understanding and will does not create it but may very well turn it towards a more perfect unfolding of its innate possibilities.

A theory of nature such as this—derived from biological as well as social studies—appears to Aristotle to provide a logical foundation for his more broadly conceived science and art of politics. Nature is at bottom a system of capacities or forces of growth directed by their inherent nature towards characteristic ends. They require for their unfolding what may be called broadly material conditions, which do not produce the ends at which growth is directed but may aid or hinder growth according as they are favourable or the reverse. The events and changes that go on continually are the processes of appropriation by which the powers of growth take possession of such material conditions as are available. These three factors, called by Aristotle form, matter, and movement, are the fundamental constituents of nature. They offer scope to the arts because within some limits not easy to discover the plans of the artist can serve as forms towards which the available material can be made to converge. Thus, in politics, the statesman cannot do anything he chooses, but he can wisely choose those courses which tend at least to a better and more desirable development of social institutions and of human life. In order to do this he needs to understand both what is possible and what is actual. He must know what potentialities of growth are present in the situation before him and what material conditions will give these ideal forces the means of working themselves out in the best way. His investigations always combine two purposes. They must be empirical and descriptive, because without the knowledge of the actual he cannot tell what means are at his disposal or how the means will turn out if used. But they must consider also the ideal dimension of the facts, for otherwise the statesman will not know how his means should be used to bring out the best that his material affords.

Aristotle's conception of the science and art of politics represents the type of investigation which offered the greatest scope to his own mature intellectual genius. In originality and boldness of speculative construction he was by no means the equal of Plato, and the underlying principles of his philosophy were all derived from his master. In

the power of intellectual organization, especially in the ability to grasp a pattern or a tendency in a vast and complicated mass of details, he was not only superior to Plato but the equal of any thinker in the later history of science. The use of this capacity, in social studies and in biology, shows Aristotle at the top of his bent, after he had freed himself in some measure from Plato and had struck out for himself a line of thought in accordance with his own originality. It was his growth in this direction that caused him to turn aside from the borrowed purpose of sketching an ideal state and to carry his investigation first towards constitutional history, and second towards general conclusions about the structure and functioning of states based upon observation and history. Aristotle was the founder of this method, which has been on the whole the soundest and most fruitful that the study of politics has evolved.

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CHAPTER VII

THE TWILIGHT OF THE CITY-STATE

THE political philosophy of Plato and Aristotle was singularly devoid of immediate influence either of a practical or a theoretical kind. In fact, if it were judged by the part that it played in the two centuries following Aristotle's death, it could only be described as a magnificent failure. The reason for this is that the two philosophers between them had stated, more completely and perfectly than any successor could hope to do, the ideals and the principles of the type of political institution with which they dealt, the city-state. There was in truth no further progress to be made upon that line. This is not to say that what Plato and Aristotle had written had value only as applying to the city-state. The presumption upon which Plato worked—that human relations may be made the object of rational study and may be subjected to intelligent direction—is a *sine qua non* of any social science whatever. And the more general ethical principles of Aristotle's political theory—the conviction that a state ought to be a relation between free citizens morally equal, conducting itself according to law and resting upon discussion and consent rather than force—have never vanished from European political philosophy. These great qualities explain why later thinkers, even down to the present, have repeatedly gone back to Plato and Aristotle. But though much that they wrote thus had permanent significance, it is a fact that Plato and Aristotle believed it to apply to the city-state and to that alone. They never conceived of these or of any political ideals as capable of being realized in any other form of civil society. Their assumption was justified by the facts as they then were, for it is hard to imagine political philosophy taking its rise in any society that then existed except the Greek cities.

Plato and Aristotle were quite aware, of course, that no city in Greece had realized the ideals which they believed to be implicit in the city-state. Had the need for criticism and correction not been clearly present to their minds, they would never have tried to analyse the society in which they lived or to distinguish its perversions from its successes. But while they criticized—and often sharply—they still believed that the conditions of a good life did measurably exist in the city-state. And while they would gladly have changed many of its practices, they never doubted that the city-state was fundamentally sound and the only ethically sound foundation for the higher forms of

civilization. Their criticism was, therefore, basically friendly. They spoke for the class of Greeks that found life in the city-state substantially satisfying, though by no means perfect. But it is an ominous symptom that both men, certainly without intending to be spokesmen for a class, were driven to make citizenship more and more explicitly a privilege and therefore the prerogative of those who had the property and the leisure to enjoy the luxury of political position. The deeper Plato and Aristotle penetrate into the underlying ethical meaning of the city-state, the more they are forced to the conclusion that this meaning exists only for a few and not for the whole mass of artisans and farmers and wage-earners, as the democracy of the Periclean Age had imagined. This in itself suggests—what was the fact—that others less vocal or less favourably situated might see in the city-state a form of society that needed not to be improved but to be superseded; at least they might regard it as a thing to be neglected by men in search of a good life. Such a criticism, of protest or at least of indifference, did exist, somewhat obscurely, in the age of Plato and Aristotle. But the historical circumstances were such that the immediate future lay with it rather than with the more imposing theories of the greater men, and this explains the temporary eclipse of their political philosophy after Aristotle's death. When the city-state had been relegated to history and it was no longer possible to picture political values as realizable only in it, men could return to exploit the infinite fertility of the *Republic*, the *Laws*, and the *Politics*.

The common form taken by these diverse philosophies of protest or indifference—and their startling significance in the fourth and third centuries—can be grasped only by keeping clearly in mind the ethical presumption which lay behind all that Plato and Aristotle wrote about the state. This is the presumption that a good life implies participation in the life of the state. It was this which enabled Plato to start with the proposition that the state is at bottom a division of labour in which men of differing capacity satisfy their needs by mutual exchange. Plato's conception was made merely more complete in Aristotle's analysis of the community. This presumption caused both men to regard participation as a conception ethically more important than either duties or rights, and to see in citizenship a sharing of the common life. From this point of view citizenship stands at the summit of human goods, or at least this would be so if both the city and human nature were developed to the top of their bent. This presumption represents the very genius of the ethics and politics of the city-state. And for this reason the essence of protest is the denial of it. Assert that a man, in order to live a good life, must live outside the city-state, or being in it should at any rate not be of it, and you have set up a scale of values not only foreign to but essentially opposed to that assumed by Plato and Aristotle. Say that the wise man will have as little to do with

politics as he can, that he will never willingly take the responsibilities or the honours of public office, but will shun both as a useless cause of anxiety, and you have said that Plato and Aristotle have set up a wholly erroneous notion of wisdom and goodness. For such a good is private, something which a man gains or loses in himself and by himself, and not something that requires a common life. Self-sufficiency, which Plato and Aristotle regarded as an attribute of the state, becomes an attribute of the individual human being. The good becomes something not strictly conceivable within the confines of the city-state—a good of privacy and withdrawal. It is the growth of this kind of ethical theory that marks the twilight of the city-state.

The attitude of Plato and Aristotle towards this ethics of withdrawal is significant. They know its existence but they cannot quite take it seriously. Thus there is perhaps a gibe at the Cynic scheme of life in the 'pig-state' of the *Republic*,[1] where living is reduced to the barest and rudest necessaries. There is almost certainly a sneer behind Aristotle's remark that the man who can live without the state is either a beast or a god. The moralist who sets up the ideal of individual self-sufficiency claims the attributes of a god, but he is likely to live the life of a beast. Only in the introduction to his ideal state does Aristotle propose to argue the relative merits of the statesman's and the philosopher's life, and here he does not really argue. He merely asserts that "happiness is activity" and that "he who does nothing cannot do well."[2] He almost certainly is thinking of the Cynics, and it is not improbable, as Jaeger suggests, that some of Plato's students had enlarged upon the ideal of the contemplative life in the spirit of Plato's own remark that the philosopher might have to be compelled to return to the den. At all events the Academy certainly had moved in this direction a generation later. But for Aristotle the argument has really not got beyond the level of epigram. The whole structure of his political thought assumes that the citizen's activity is the chief good and he never takes any other view seriously.

THE FAILURE OF THE CITY-STATE

Beside the theoretical assumption that only the city-state is morally self-sufficient there is also in the reformist political philosophy of Plato and Aristotle a practical assumption of great importance and one which had the misfortune to be not quite true under existing circumstances. The improvement of the city-state within limits set by that form of government took for granted that its rulers were free agents, able by the choice of wise policies to correct its internal defects. The complete acceptance of it as a moral institution by Plato and Aristotle meant in

[1] 372*d*.

[2] 7, 3; 1325*a*, 16 ff.

effect that their political horizon was bounded by it. In consequence neither of them was as keenly aware as he should have been of the part which foreign affairs played even in the internal economy of the city-state. It is true that Aristotle criticized Plato for this omission,[1] but it cannot be said that he did better himself. If Plato had been as closely associated with Macedonia as Aristotle, he would hardly have failed to perceive the epoch-making importance of the career of Alexander. It is interesting to conjecture what might have happened if it had occurred to Aristotle to consider the hypothesis that the city-state needed to be absorbed into some still more self-sufficing political unit, as it had itself absorbed the family and the village. But this was beyond his power of political imagination. In fact, however, the fate of the city-state depended not upon the wisdom with which it managed its internal affairs but upon its inter-relations with the rest of the Greek world and upon the relations of Greece to Asia on the east and to Carthage and Italy on the west. The supposition that the city-state could choose its mode of life regardless of limits fixed by these foreign relations was fundamentally false. Plato and Aristotle might deplore, like many other intelligent Greeks, the contentiousness and belligerency of the relations between the Greek cities, but as the event proved, these vices were ineradicable so long as the cities remained independent.

As Professor W. S. Ferguson has pointed out,[2] the Greek city-state from a date early in its history was confronted by a political dilemma which it never was able to cope with. It could not attain self-sufficiency, either in its economics or its politics, without adopting a policy of isolation, and it could not isolate itself without suffering stagnation in that very culture and civilization which Aristotle regarded as its crown of glory. On the other hand, if it chose not to isolate itself, it was driven by political necessity to seek alliances with other cities, and these alliances could not be successful without impairing the independence of their members. The dilemma ought to be comprehensible to a modern political observer, for it was substantially similar to that in which a more inclusive economy has placed the nation-state. The modern nation can neither isolate itself nor, as yet at least, curb its independence enough to form a more viable political unit. All the modern fictions about complete national sovereignty united with international regulation find their parallel in the Greek alliances of allegedly independent cities. By the middle of the fourth century these federations were the prevailing form of government in the Greek world, but they quite failed to make permanent and stable states. Even as late as the formation of the Panhellenic League by Philip, at Corinth in 338, the cities, had they been able to work together, might have gone far towards influencing and even controlling the policy of Macedonia, but the inherent particularism of the city-state was unable to rise to the

[1] *Politics*, 2, 6; 1265*a*, 20.

[2] *Hellenistic Athens* (1911), pp. 1 ff.

opportunity. It is a matter of speculation whether, had the Greek cities been left to themselves, they would ever have succeeded in producing a really effective kind of federal government. It was of the essence of the situation that they could never hope to be left to themselves.

Greek particularism and its dangers to Greek political life were an old story even in Plato's day. Especially the orators, from the beginning of the fourth century, had exhorted them to unite against the barbarians either of the east or of the west. Gorgias of Leontini had made it the subject of an oration at the Olympian Games, as had also Lysias a little later in 388. Isocrates had urged unity and lived to see in Philip of Macedon, as he believed, the man of destiny who might bring it about. Yet the treaty of Antalcidas (387–386) had established the suzerainty of Persia over the Greek world in matters of war and peace, and the Persian power persisted until it passed into the hands of Philip by the formation of the League at Corinth. Two centuries later the control of Greece was taken over by the expanding power of Rome. In foreign affairs, therefore, the city-state had failed permanently and more or less obviously from a date quite early in the fourth century. Even if the confederation had succeeded in stabilizing relations among the cities themselves, they would still have had to deal with the great political forces that surrounded the Greek world on the east, north, and west. And this they were doubly incapable of doing.

The failure of the cities to stabilize their relations with one another was not, however, a failure only in a special branch of administration. Foreign and domestic affairs were never really separable in the city-states, for the class-interests which were oligarchic or democratic in internal politics were similar from city to city and continually made common cause. No important aspect of local government could avoid making its peace in some fashion or other with the political and economic ties which ran between cities. And this is as true of the Macedonian intervention as of the relations between cities. The interests of property were in general on the side of Macedonia and this is one important reason why the more prosperous classes tended to look with complaisance upon the rise of Philip's power. For obvious reasons democratic interests had more local patriotism. The inextricable intertwining of foreign and domestic policy is admirably illustrated by the treaties between Alexander and the cities of the League of Corinth. In addition to the control of foreign affairs, Macedonia and the League were given the responsibility of repressing, in the cities of the League, any movement for the abolition of debt, the redivision of land, the confiscation of property, or the liberation of slaves. Later leagues included similar provisions.[1] The old issue between wealth and poverty, which Plato and Aristotle regarded as the essential difference between oligarchy and democracy, was in no way diminished as time

[1] W. W. Tarn, *Hellenistic Civilisation* (1927), p. 104.

went on. If anything it grew sharper; foreign intervention might draw the lines anew but the lines were still there.

The truth is that the social and political problems of the Greek world were not soluble by the city-states. It would be false to imply that they were really solved by the confederations and the monarchies that followed the conquests of Alexander. What became ever clearer was that the politics of the city-state did not even state the problems. The rise of Macedonia forced home the recognition of two facts that had existed but that Plato and Aristotle had for the most part overlooked. The one fact was that the city-state was too small and too contentious to govern even the Greek world and that no perfecting of it would make it commensurable with the economy of the world in which it lived. The other fact was that the assumed political superiority of Greeks over barbarians was not viable in the eastern Mediterranean, in view of the economic and cultural relations which had long existed between the Greek cities and the Asiatic hinterland. When Alexander deliberately adopted the policy of merging his Greek and his Oriental subjects—a policy which must have been flatly contradictory of all that Aristotle had taught him about politics—he was at once accepting a fact whose importance his master had missed and also taking a step which made his master's political presumptions definitely obsolete.

WITHDRAWAL OR PROTEST

It is clear, then, that there was nothing accidental about the existence and the spread of a political philosophy much more negative in its attitude towards the values native to the city-state than that of Plato and Aristotle. The city-states of course continued to exist, and most of them continued for a long time to control their local affairs by the old governing bodies. No general statement can be made that will cover all the degrees and kinds of control over them in the Hellenistic Period. But no intelligent observer who had a sense of humour could take them quite so seriously as to suppose that their offices formed the capstone of a very significant career. A negative attitude might arise merely from a perception of the fact that the government of the city was not so important as men had imagined, that the life of any city was not for the most part in its own power, and that the most gifted statesmen could not hope to accomplish much in that area. The result would be a defeatist attitude, a mood of disillusionment, a disposition to withdraw and to create a private life in which public interests had a small or even a negative part; a public career would be indifferent or even an actual misfortune. This point of view was perhaps best illustrated by the Epicureans or the Sceptics. On the other hand, a much more forthright negation of the city-state and its values might arise in so far as the unfortunate and dispossessed succeeded in making themselves vocal. Here

it might be expected that withdrawal would be accompanied by a note of protest or a stress upon the seamy side of the existing social order. Such a protest might well be unable to state an adequate ideal of its own and might therefore run to fantastic or even indecent extremes. This tendency was illustrated best by the Cynic School.

It was characteristic of all these Schools, as has been said, that they did not follow the lines laid down by Plato and Aristotle. Their significance lies in the fact that they branched out in a new direction and began lines of thought to which the future was to give importance. For this reason they stand in some respects upon a much lower level of perfection than the work of the great theorists of the city-state. None of their authors possessed the transcendent genius of Plato and none had Aristotle's incomparable mastery of the history and government of the city-states. Their importance lies in the fact that they present a different point of view, that they raise questions about first principles, and that they make an opening for the restatement of these principles in a situation very different from that which Plato and Aristotle had envisaged. Considered sympathetically the failure of the city-state must be interpreted as a major moral disaster, at least for those classes that were mainly affected. It meant infinitely more than the closing of a political career can possibly mean in an age when in any case the whole scheme of values is largely private and personal. It forced upon men the creation for the first time of ideals of personal character and private happiness such as a Greek, trained in the ideals of the city-state, could scarcely see as other than a makeshift and a renunciation. This may be perceived in the growth of large numbers of private societies for religious or social purposes, such as the classical age had felt no need for, a tendency characteristic of the Hellenistic age.[1] These are manifestly an effort to compensate for the social interests left unsatisfied by the recession of the city from a place of first-rate importance. To Plato and Aristotle the values offered by citizenship still seemed fundamentally satisfying, or at least capable of being made so; to a few of their contemporaries and increasingly to their successors this appeared to be false. It was this profound difference of point of view that made it necessary for the time being to turn aside from the political philosophy which they had left.

All the schools that taught the ideal if individual self-sufficiency professed to arise directly from the teaching of Socrates. How much truth there may have been in any of these claims is impossible to say, and after the generation had passed that had known him in person, his professed followers probably knew little more about it than is known now. Socrates became and remained almost a myth, the ideal wise man and philosophic hero, whom every school set up as the professed example of its teaching. In one sense, however, the philo-

[1] Tarn, *op. cit.*, p. 81.

sophical problem really did return to the posture in which it had stood before the work of Plato. It was a recanvassing of the old issue about the meaning of nature and its relation to customary and conventional rules of popular morals. This was, of course, true for the generation to which Plato belonged, since every one really did begin where Socrates left off, but it was true at a later date also for those who found themselves unable to accept the elaborate solutions offered by Plato and Aristotle. The more it became doubtful whether the city-state actually did provide the only conditions upon which a civilized life can be lived, the more it was necessary to re-examine the previous question: What are the essential and permanent factors in human nature from which a theory of the good life can be derived? Theories that Plato considered and rejected get a new hearing.

There were, as has been said, two chief forms of political philosophy to be considered in this connection. The one was most fully developed in the Epicurean School, though the differences between Epicureans and Sceptics were not very important, so far as the negations of their political theories were concerned. The second was the very different political philosophy of the Cynic School. It will be convenient to consider the two forms of theory in this order.

THE EPICUREANS

The purpose of Epicureanism[1] was, in general terms, the same as that of all the ethical philosophy of the period after Aristotle, namely, to produce in its students a state of individual self-sufficiency. To this end it taught that a good life consists in the enjoyment of pleasure, but it interpreted this negatively. Happiness consists actually in the avoidance of all pain, worry, and anxiety. The pleasures of congenial friendship, which Epicurus sought to realize within the circle of his pupils, were those which formed the positive content of his doctrine of happiness, and this involved a withdrawal from the useless cares of public life. The wise man, therefore, will have nothing to do with politics unless circumstances compel him to do so. The philosophical basis of this teaching is a system of thoroughgoing materialism adopted from earlier philosophies, and apparently chosen less because it was certainly true than because of the consolations which it was believed to hold out. The secret of its power of consolation lay in the fact that Epicurus counted the anxieties of religion, of divine retribution, and the incomprehensible whims of gods and spirits, as among the most serious to which man is heir. The gods, we may be sure, care nothing about men and do not interfere either for good or ill in the course of their

[1] The School was founded by Epicurus at Athens in 306 and remained for centuries one of the four great Athenian Schools. It was connected with Socrates through Aristippus.

lives. This was, in fact, the most virile part of the Epicurean teaching. The School was a caustic critic of all sorts of superstitious practice and belief, such as divination and astrology—a really substantial evil—and its record in this respect is in honourable contrast to that of Stoicism, which was only too ready to find adumbrations of truth in popular beliefs that were obviously not true.

So far as the world at large is concerned, then, nature means simply physics, the atoms out of which all things are made. So far as human beings are concerned, nature means self-interest, the desire of every man for his own individual happiness. All other regulation of human action belongs to the class of conventions and is, therefore, meaningless for the wise man, except in so far as a conventional rule may be serviceable in producing more happiness than men would get without it. There are, therefore, no intrinsic moral virtues and no intrinsic value of any sort except happiness.

> There never was an absolute justice but only a convention made in mutual intercourse, in whatever region, from time to time, providing against the infliction or suffering of harm.[1]

The argument against intrinsic values is the variety of moral rules and practices which have prevailed in different times and places, an argument which was originally exploited by certain of the Sophists and which had been noticed (and in intention refuted) by Plato in the discussion of justice in the *Republic*. At a later date it was vastly elaborated by the Sceptic Carneades against the Stoics.[2] The vital point in the argument is the view that the good is a feeling privately enjoyed and that social arrangements are justified, if at all, only as devices to secure the largest possible private good.

States, then, are formed solely for the sake of obtaining security, especially against the depredations of other men. All men are essentially selfish and seek only their own good. But in this way the good of every one is jeopardized by the equally selfish action of all other men. Accordingly men enter into a tacit agreement with each other neither to inflict nor to suffer harm. The best life, no doubt, would consist in doing injustice without suffering it, and the worst would be to suffer injustice without being able to do it, but since the first is impossible and the second intolerable, men adopt as a working compromise the plan of respecting the rights of others for the sake of obtaining an equal forbearance from them. In this way the state and the law come into existence as a contract to facilitate intercourse between men. If no such contract exists, there is no such thing as justice. Law and government exist for the sake of mutual security and they are effective solely because the penalties of the law make injustice unprofitable. The wise man will

[1] Golden Maxims, 33. See R. D. Hicks, *Stoic and Epicurean* (1910), pp. 177 ff.
[2] Carneades' argument is reviewed at length by Micero, *Republic*, Bk. III, 5–20.

act justly because the fruits of injustice are not worth the risk of detection and punishment. Morality is identical with expedience.

It follows, of course, that what men regard as right and just conduct will vary with circumstances and with time and place.

> Whatever in conventional law is attested to be expedient in the needs arising out of mutual intercourse is by its nature just, whether the same for all or not, and in case any law is made and does not prove suitable to the expediency of mutual intercourse, then this is no longer just. And should the expediency which is expressed by the law vary and only for a time correspond with the notion of justice, nevertheless, for the time being, it was just, so long as we do not trouble ourselves about empty terms but look broadly at facts.[1]

In general, no doubt, justice is largely the same among all peoples, for human nature is much the same everywhere, but still it is easy to see that at least in its applications the principle of expedience will vary more or less according to the kind of lives men lead. Thus what is wrong for some peoples may be right for others. For similar reasons a law which was perhaps originally just because it facilitated human intercourse, may become wrong if the conditions change. In any case the test of law and of political institutions lies solely in expedience; in so far as they meet the need for security and make mutual intercourse safer and easier they are just in the only intelligible sense of the word. It was not unnatural, therefore, that the Epicureans, while caring little about forms of government, should have had a general preference for the monarchy as being the strongest and therefore the securest of governments. They were drawn, no doubt, mainly from the propertied classes, for whom security is always a major political good.

The social philosophy of the Epicureans was backed up by a really impressive theory of the origin and development of human institutions upon purely materialist principles. This has been preserved in the fifth book of Lucretius' poem *De rerum natura*, but it presumably originated with Epicurus. All the forms of social life, its political and social institutions, the arts and sciences, in short, all human culture, have come about without the intervention of any intelligence other than man's. Living beings themselves are the result of purely physical causes, and Epicurus borrowed from Empedocles a theory that rather crudely suggests the modern hypothesis of natural selection. Man has no instinctive leaning towards society and no impulsion other than the restless pursuit of his individual happiness. In the beginning he lived a roving and solitary life, seeking shelter in caves, and struggling to maintain himself against wild beasts. The first step towards civilization was the accidental discovery of fire. Gradually he learned to shelter himself in huts and to clothe himself with skins. Language originated from the cries by which instinctively he expressed his emotions. Experience and the more or less intelligent adaptation of action

[1] Golden Maxims, 37.

to the conditions of nature in time produced the various useful arts, as well as the institutions and laws of organized society. Civilization is wholly the creation of natural human powers acting within the conditions set by the physical environment. Belief in the gods arises from dreams; the beginning of wisdom lies in the realization that the gods take no part in human affairs.

The full possibilities of such a theory of social evolution, and of a political philosophy based upon pure egoism and contract, could not be exploited until modern times. Then it was revived and the political philosophy of Hobbes—in its underlying materialism, its reduction of all human motives to self-interest, and in its construction of the state upon the need for security—is remarkably like Epicureanism. In the ancient world the drift of thought was against its most vital element—its attack upon religion and superstition—for the importance of religion among human interests was pretty steadily on the increase. It is true, however, that Epicureanism was on the whole a philosophy of escape. The charges of sensualism which gave its very name a bad meaning are mostly groundless, but it probably tended to foster a kind of bloodless Aestheticism incapable of influencing, or of wishing to influence, the course of human affairs. For individual men it was a source of peace and consolation, but for the time being it had nothing to do with the progress of political ideas.

THE CYNICS

The Cynics also, perhaps, held a philosophy of escape but of a very different kind. More than any other School they formulated a protest against the city-state and the social classifications upon which it rested, and their escape lay in the renunciation of everything that men commonly called the goods of life, in the levelling of all social distinctions, and in abandoning the amenities and sometimes even the decencies of social conventions. Apparently they were recruited from the ranks of the foreigners and exiles, that is, from those who already stood outside the citizenship of the state. The founder of the School, Antisthenes, had a Thracian mother; its most notorious member, Diogenes of Sinope, was an exile; and its most able representative, Crates, seems to have renounced his fortune to adopt a life of philosophic poverty as a wandering beggar and teacher. His wife, Hipparchia, was a woman of good family who was first his pupil and then the companion of his wanderings. The Cynics formed a somewhat vague and quite unorganized body of roving teachers and popular philosophers who adopted a life of poverty on principle and who suggest somewhat the mendicant friars of the Middle Ages. Their teaching was addressed for the most part to the poor; they taught contempt for all the conventionalities; and in their behaviour they often affected a shocking

rudeness and disregard for decorum. In so far as the ancient world produced such a phenomenon, the Cynic may be described as the earliest example of the proletarian philosopher.

The philosophical basis of their teaching was the doctrine that the wise man ought to be completely self-sufficing. This the Cynics take to mean that only what is within his power, his own thought and character, is necessary to a good life. Everything except moral character is a matter of indifference. Among things indifferent the Cynic includes property and marriage, family and citizenship, learning and good repute, and in short all the pieties and conventions of a civilized life. All the customary distinctions of Greek social life were thus subjected to an annihilating criticism. Rich and poor, Greek and barbarian, citizen and foreigner, freeman and slave, well-born and base-born, are all equal, for they are all reduced to the common level of indifference. The equality of the Cynics, however, was the equality of nihilism. The School never became the medium for a social doctrine either of philanthropy or of amelioration, but leaned always towards the ascetic and puritanical. For poverty and slavery were literally of no consequence in their eyes; true, the freeman was no better than the slave, but neither the one nor the other had any value in himself, nor would the Cynic admit that slavery was an evil or freedom a good. They appear to have been actuated by a real hatred of the social discriminations universal in the ancient world, but this hatred led them to turn their backs on inequality and to seek in philosophy the entrance into a spiritual realm where the abominations would not matter. It was hardly less a philosophy of renunciation than Epicureanism, but it was the renunciation of the Ascetic and Nihilist rather than of the Aesthete.

The result was that the political theory of the Cynics was utopian. Both Antisthenes and Diogenes are said to have written books on politics and both seem to have sketched a kind of idealized communism, or perhaps anarchy, in which property, marriage, and government disappeared. The problem was not one that, as the Cynic conceived it, touched the lives of the great majority of men. For most men, of whatever social class, are in any case fools, and the good life is only for the wise man. Equally, a true form of society also is for the wise man only. Philosophy emancipates its votaries from the laws and conventions of the city; the wise man is equally at home everywhere and nowhere. He requires neither home nor country, neither city nor law, because his own virtue is a law to him. All institutions are equally artificial and equally beneath the notice of the philosopher, for between men who have attained moral self-sufficiency these things are all unnecessary. The only true state is that in which wisdom is the requirement for citizenship and this state has neither place nor law. All wise men everywhere form a single community, the city of the world, and

the wise man is, as Diogenes said, a 'cosmopolitan,' a citizen of the world. This conception of world-wide citizenship involved important consequences and had a distinguished history in Stoicism, but this was due chiefly to the positive meaning which the Stoics gave it. What the Cynics emphasized was its negative side: primitivism, the abolition of civic and social ties and of all restrictions except those that arise from the wise man's sense of duty. The protest of the Cynic against social convention was a doctrine of the return to nature in the most nihilist sense of the term.

The chief practical importance of the Cynic School lay in the fact that it was a matrix from which Stoicism emerged. But the Cynics have an interest perhaps out of proportion to their importance. After an interval of more than two thousand years it is not easy to recover the obscurer elements of political thought and those not in accord with the more vocal classes in the state. The rise and spread of Cynicism shows that, even as far back as the time of Socrates, there were some upon whom the institutions of the city-state bore heavily and who saw in it by no means an object to be idealized. With Plato and Aristotle in opposition these men were bound to be minor prophets. Yet what they saw at the beginning of the fourth century of the declining importance of the city-state was only what all men saw by the end of the century.

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PART II

THE THEORY OF THE UNIVERSAL COMMUNITY

CHAPTER VIII

THE LAW OF NATURE

In the history of political philosophy the death of Aristotle in 322 marks the close of an era, as the life of his great pupil, who died the year before him, marks the beginning of a new era in politics and the history of European civilization. The failure of the city-state is drawn like a sharp line across the history of political thought, whereas from this date forward its continuity is unbroken down to our own day. As Professor A. J. Carlyle has said, if there is any point where the continuity of political philosophy is broken, it is at the death of Aristotle.[1] The rise of Christianity produced, by comparison, only superficial changes in its course, and however great the later changes in political thought, they were at all events continuous, from the appearance of the theory of natural law in the Stoic School down to the Revolutionary doctrine of the rights of man. No other contrast is so dramatic as the magnificent statement of the ideals of the city-state by Plato and Aristotle, seen against the decline of the city and the total inapplicability of this philosophy a generation later.

> Man, as a political animal, a fraction of the *polis* or self-governing city-state, had ended with Aristotle; with Alexander begins man as an individual. This individual needed to consider both the regulation of his own life and also his relations with other individuals who with him composed the 'inhabited world'; to meet the former need there arose the philosophies of conduct, to meet the latter certain new ideas of human brotherhood. These originated on the day—one of the critical moments of history—when, at a banquet at Opis, Alexander prayed for a union of hearts (*homonoia*) and a joint commonwealth of Macedonians and Persians.[2]

In short, men had to learn to live alone as they had never done, and they had to learn to live together in a new form of social union much larger and much more impersonal than the city-state. How difficult the first task was may perhaps best be seen by the steady growth throughout the ancient world of forms of religion that held out the hope of personal immortality and provided rites of initiation into some mystic union with a god, often a suffering and dying god, that provided the

[1] *History of Mediaeval Political Theory*, Vol. I (1903), p. 2.
[2] W. W. Tarn, *Hellenistic Civilisation* (1927), p. 69.

means of salvation both in this life and in a life after death and, in their more vulgar forms, a magic to coerce fate and secure the aid of spirits.[1] All the philosophies after Aristotle became agencies of ethical instruction and consolation, and, as time passed, took on more and more the characteristics of religion; often philosophy was the only religion that an educated man had, in any sense that implied conviction or feeling. No social tendency is more clearly marked in this period than the increasing part that religion played in men's interests, or the increasing importance of religious institutions, a tendency which culminated in the appearance of Christianity and the formation of the Christian Church. It is impossible not to see in this religious growth an emotional aid for men who, without it, felt that they faced the world alone and found their native powers too feeble for the ordeal. Out of this process there grew a self-consciousness, a sense of personal privacy and internality, such as the Greek of the classical age had never possessed. Men were slowly making souls for themselves.

How difficult was the task of learning to live together in a new form of human brotherhood may perhaps best be seen in the effort of political and ethical philosophy to reinterpret social relations in terms other than those provided by the city-state. The sense of individual privacy and isolation had its reverse side, which was the consciousness of man as a human being, a member of the race, possessing a human nature more or less identical everywhere. For the breaking down of the intimate tie that had held citizens together left him simply a man. There was not in the ancient world any such consciousness of nationality as keeps the modern Frenchman or German a distinct kind of man, in his own estimation at least, even when he lives in a foreign country. With Attic Greek for a language a man in the Hellenistic age could get on comfortably, at least in the cities, from Marseilles to Persia. As time went on even citizenship, once a matter of birth alone, might be held in several cities at once, and indeed cities might grant their citizenship to the whole citizen-body of another city. There was little to create a distinct consciousness of kind, setting men off from one another in groups. In so far as a man was not an individual and merely himself, he was a man like other men and a member of the species. At least this came to be more and more the case as the older ties grew progressively weaker and as even the distinction of Greek and barbarian receded before the intermingling in Egypt and Syria.

Political thought had, therefore, two ideas to make clear and to interweave into a common scheme of values: the idea of the individual, a distinct item of humanity with his purely personal and private life, and the idea of universality, a world-wide humanity in which all are endowed with a common human nature. The first could be given ethical meaning on the supposition that the individual person as such

[1] See Tarn, *op. cit.*, ch. x.

had a worth which other individuals were bound to respect. This was an assumption which had played small part in the ethics of the city-state, where the individual appeared as citizen and where his significance depended upon his status or his function. In the great world an individual could hardly be said to have function—unless in some religious sense—but he might, so to speak, make a virtue of his very insignificance. He might claim his own unsharable inner life as the origin from which all other values grow. In other words, he could set up the claim of an inherent right, the right to have his personality respected. But this in itself would require a corresponding addition of ethical meaning to the idea of universality. To mere likeness of kind it adds likeness of mind, *homonoia* or *concordia*, a union of hearts which makes the human species a common family or brotherhood. "Now there are diversities of gifts, but the same spirit," said St Paul, adapting to the purposes of Christianity what was by that time a commonplace, "and there are diversities of operations, but it is the same God which worketh all in all. . . . For as the body is one and hath many members, and all the members of that one body, being many, are one body, so also is Christ."[1]

Great as is the gap between this conception of a world-wide society of autonomous individuals and the moral intimacy of the city-state, the two are not wholly discrepant. It would be truer to say that the philosophy of the Hellenistic age tried to project upon a cosmic field ideals which, in their first appearance, were confined within the limits of the city. Aristotle had held that the two essentials of citizenship were that it should be a relation between equals, rendering a voluntary loyalty to a government having lawful rather than despotic authority. But he had inferred that equality could be asserted only of a small and very select body of citizens. The new conception posited equality for all men, even for the slave, the foreigner, and the barbarian. It had, therefore, to dilute the content of individual personality, either to a somewhat mystical equality of every soul in the eyes of God or to the equality of every man in the eyes of the law, neglecting inequalities of intelligence, character, and property. But though more abstract it could still argue, like Aristotle, that free citizenship implies some sphere of like treatment within which the state should be no respecter of persons. It had also, like Aristotle, to hold that the claim to authority is a claim of right and not of force, a claim to which a man of goodwill can assent without the loss of his proper moral dignity. This, too, involved a dilution of content. In place of a law embodied in the closely unified tradition of a single city, it had to conceive a law for the whole civilized world, an inclusive law of which the civil law of each city is only a particular instance.

This readjustment of ideas and readaptation of ideals is the

[1] 1 Corinthians, xii, 4–12.

tremendous task confronting political philosophy at the breakdown of the city-state. There is, perhaps, no better evidence of the intellectual vitality of Greek philosophy than the fact that the task was accomplished. What threatened to be a disaster to civilization became a fresh starting-point. The twin conceptions of the rights of man and of a universally binding rule of justice and humanity were built solidly into the moral consciousness of the European peoples. However much they might be disregarded or violated in the letter, they were too deeply rooted to be destroyed, even by the rise of a force so powerful as modern nationalism. The ideal of free citizenship was transformed to meet a situation in which the holding of public office and the performance of political function played a negligible part, and yet the ideal did not wholly vanish, for it persisted as the conception of a legal status and a body of rights in which the individual could claim the protection of the state. Finally, the conception was preserved that use and wont, prescriptive right and privilege, and overmastering power ought to justify themselves at the bar of a higher law, that they were at least subject to rational criticism and inquiry.

CONCORD AND MONARCHY

This work of reinterpretation and readaptation required a long time and received contributions from many sources. Its beginnings especially are obscure but, so far as philosophy was concerned, it came in the long run to be mainly identified with the philosophy of the Stoic School. This was the fourth and last of the great Athenian Schools, founded a little before 300 B.C. by Zeno of Citium. But it was less closely bound to Athens, and indeed to Greece, than any of the other Schools. Its founder was a "Phœnician," which must mean that at least one of his parents was Semitic. After him the heads of the School came usually from outlying parts of the Greek world, especially from Asia Minor, where the mingling of Greeks and Orientals proceeded most rapidly, and it was not until the first century B.C., when the School at Athens had ceased to be the centre of Stoicism, that it was headed by an Athenian. Thus Chrysippus, its second founder, came from Cilicia, and Panætius, who carried Stoicism to Rome, came from Rhodes. Stoicism was, then, from the start a Hellenistic and not a Greek School, and the ancients themselves believed in the relation of its teaching to Hellenistic politics, witness the remark of Plutarch that Alexander had founded the kind of state proposed by Zeno,[1] though this speaks rather for later Stoicism than for Zeno himself. Of special importance was the fact that Stoicism made a strong appeal to educated Romans of the second century and thus became the medium by which

[1] *I. de Alex. virt.*, 6.

Greek philosophy exerted an influence in the formative stage of Roman jurisprudence.

In its beginnings Stoicism was a branch of Cynicism. According to the tradition which is probably false, Zeno's book on the state was written while he was still a pupil of Crates, and its fragments show that it must have been a utopia much upon the lines of that written by Diogenes. In the ideal state, he said, men would live as a single 'herd,' without family and presumably without property, with no distinction of race or rank, and without the need of money or courts of law. Zeno broke with the Cynics because of the crudeness and lack of decorum to which their naturalism led, but his early dependence on them remained to plague the new School. An element of doctrinaire utopianism was embedded in Stoicism which it never got rid of, though this was more and more disregarded, especially when the Middle Stoa adapted its teaching to Roman use. So long as its political theory held up an impossible ideal for a hypothetical world of philosophers, it could not really adopt the new idea of concord. To give up the distinction of Greek and barbarian was a gain, but to substitute for it an equally sharp distinction of wise men and fools did not greatly improve matters.

The idea of concord was intimately connected with the Hellenistic theory of kingship. The personal relation of Zeno to Antigonus II, king of Macedon, who was his pupil, and the fact that a member of the School was chosen to educate Antigonus' son, suggest a leaning towards enlightened despotism, but this was not a general characteristic of Stoicism. Mr Tarn has argued that the plan to produce concord between Greeks and barbarians was Alexander's own, and that the philosophers took it up later. However this may be, the theory of kingship may well have had sources that were not Stoic.[1] It was in the nature of the situation that monarchy should receive the attention of political theorists as it had not in the classical age. Aristotle had treated monarchy as an academic question, but Alexander's empire and the parts into which it divided made a large part of the ancient world subject to kings—the Ptolemies in Egypt, the Seleucids in Persia, and the Antigonids in Macedonia—and even the confederations were subject to their influence or control. The new monarchies (other than Macedonia) were predestined to be absolute, since there was no other form of government that could combine Greeks and Orientals. The king was not only the head of the state; he was practically identical with it, for there was no other cohesive force to hold it together.

[1] W. W. Tarn, *Alexander the Great and the Unity of Mankind* (1933), Proceedings of the British Academy, Vol. XIX. See E. R. Goodenough's "Political Philosophy of Hellenistic Kingship" in *Yale Classical Studies*, Vol. I (1928), pp. 55 ff., which discusses a group of Pythagorean fragments, of uncertain date, preserved in Stobaeus. See also M. H. Fisch, "Alexander and the Stoics," *Am. J. Philology*, Vol. LVIII (1937), pp. 59, 129.

Composed as they were of very diverse elements, these kingdoms necessarily left standing a large amount of local custom and local law, subject to such regulations as the unity of the kingdom required. Thus there grew up the distinction of king's law, or common law, and local law. The king became in a peculiar sense the symbol of unity and good government.

At the same time Hellenistic absolutism never wholly lost the Greek sense that government ought to be something more than military despotism. In Asia and Egypt the sanction was found in religion, the divinity of the king, who was worshipped in an official cult after his death or even in his lifetime. Beginning with Alexander, Hellenistic kings were enrolled also among the gods of the Greek cities. The deified king became a universal institution in the East and in the end it had to be adopted by the Roman emperors. Thus a belief in "the divinity that doth hedge a king" came into European thought and persisted, in one form or another, down to modern times. The conception argued no special abjectness in subjects. So far as educated Greeks were concerned, the practice certainly involved nothing that was genuinely religious, and in any case there was nothing inherently shocking about a man being elevated to the rank of a god. Many Greek cities had heroes or lawgivers who had enjoyed that honour. Its purpose and its consequences in the cities were political; it gave Alexander and his successors who enjoyed it the authority needed to make their alliance with the cities effective.[1] Even in the monarchies the official cult of the king had a constitutional significance, not altogether unlike that which the theory of divine right had in the monarchy of the sixteenth century. It was the best available means of giving unity and homogeneity to the state and it was a way of saying that the king's authority had some claim of right behind it. Moreover, it gave to the king's law a continuance beyond his lifetime which it could not have claimed if it were only the expression of his will. Finally, religious titles, such as Saviour and Benefactor, might be real descriptions of what a good king could do; the gratitude of subjects for peace and good government was often genuine.

Consequently there grew up in Hellenistic times a theory of the deified king which in effect ascribed to his essential nature the beneficial effects which he ought to have. A true king was divine because he brought harmony to his kingdom as God brings harmony into the world. In a phrase widely current, he was an Animate Law, a personalized form of the principles of law and right that govern the whole universe. For this reason he possessed a divinity which the common man did not share and which brought to disaster the unworthy usurper who claimed the high office without the blessing of heaven. Consequently his authority had a sanction, moral and religious, which his

[1] W. W. Tarn, *Hellenistic Civilisation* (1927), pp. 45 ff.

subjects could recognize without loss of their own moral freedom and dignity. For the conviction persisted that kingship and despotism are essentially different.

> Oh, that it were possible to put from human nature all need for obedience! For the fact that as mortal animals we are not exempt from it is the basest trace of our earthiness, inasmuch as a deed of obedience is very close to being one of necessity.[1]

THE CITY OF THE WORLD

This idealization of divinely sanctioned monarchy, however, does not appear in the classic form of Stoicism, perhaps because it was given its systematic statement at Athens at a date when the city had regained at least a qualified independence of Macedonia. In the hands of Chrysippus the Stoa in the last quarter of the third century became the greatest and most honoured of the Athenian Schools, and Stoicism assumed the systematic shape which it retained throughout its history. Though he wrote a forbidding style that made him a by-word for dryness and verbalism, he succeeded in giving to the Stoic philosophy a form which made it in antiquity "the intellectual support of men of political, moral, and religious convictions."[2] It gave a positive moral meaning to the idea of a world-wide state and a universal law, which the Cynics had left merely as a negation of the city-state.

The ethical purpose of Stoicism was like that of the other post-Aristotelian philosophies, namely, to produce self-sufficiency and individual well-being. In fact, the School was always a little uncertain whether its ideal was the saint, who stands above worldly interests, or the man of action. A Stoic as well as an Epicurean might teach that the part of wisdom was to withdraw from the world. For two reasons, however, this was not the prevailing bent of the School. First, it sought to teach self-sufficiency by a rigorous training of the will; its virtues were resolution, fortitude, devotion to duty, and indifference to the solicitations of pleasure. And second, the sense of duty was reinforced by a religious teaching which was not unlike Calvinism. The Stoic had a strong belief in the overruling power of Divine Providence; he felt his own life as a calling, a duty, assigned to him by God, as a soldier is assigned to duty by his commander. Another figure of speech often used was the stage, upon which men are only players. The duty of every man is to play well the part for which he is cast, whether it be conspicuous or trifling, happy or miserable. The fundamental teaching of the Stoics was a religious conviction of the oneness and perfection of nature or a true moral order. A life according to nature meant for them resignation to the will of God, co-operation with all the forces of

[1] Translated by Goodenough, *loc. cit.*, p. 89.
[2] W. S. Ferguson, *Hellenistic Athens* (1911), p. 261.

good, a sense of dependence upon a power above man that makes for righteousness, and the composure of mind that comes from faith in the goodness and reasonableness of the world.

There is, then, a fundamental moral fitness between human nature and nature at large. This the Stoic expressed by saying that man is rational and that God is rational. The same divine fire that animates the world has cast a spark into the souls of men. And this gives to humanity a special position among the creations of the world-soul. The animals are given instinct and the impulses and powers needed for life according to their several kinds, but men have reason; they have speech and the sense of right and wrong; hence they alone of all beings are fitted for a social life and for them such a life is necessary. Men are the sons of God and therefore brothers to one another. The belief in Providence is, for the Stoics, essentially a belief in the value of social purposes and in the duty of good men to bear a share of them. It was this conviction that made Stoicism a moral and a social force. There was nothing intrinsically utopian about it, though it is true that the earlier Stoics were likely to put their philosophic heroes on a pedestal.

Hence there is a world-state. Both gods and men are citizens of it, and it has a constitution, which is right reason, teaching men what must be done and what avoided. Right reason is the law of nature, the standard everywhere of what is just and right, unchangeable in its principles, binding on all men whether ruler or subjects, the law of God. Chrysippus expressed it as follows in the opening words of his book *On Law*:

> Law is the ruler over all the acts both of gods and men. It must be the director, the governor and the guide in respect to what is honourable and base, and hence the standard of what is just and unjust. For all beings that are social by nature the law directs what must be done and forbids what must not be done.

The conventional social distinctions that prevail in particular localities have no meaning for the world-state. The earlier Stoics continued to deny, after the fashion of the Cynics, that a city of wise men would need any institutions at all. Greek and barbarian, well-born and common, slave and free, rich and poor are all declared to be equal; the only intrinsic difference between men is that between the wise man and the fool, between the man whom God can lead and the one whom he must drag. There can be no doubt that the Stoics used this theory of equality from the start as a ground for moral improvement, though social reform was always with them a secondary consideration. Chrysippus says that no man is a slave 'by nature' and that a slave should be treated as a 'labourer hired for life,' which has a very different tone from Aristotle's description of him as a living implement. Potentially at least, citizenship in the world-city was open to all, for it depends on reason, which is a common human trait; in practice the Stoics, like

most rigorous moralists, were impressed by the number of fools. Strait is the way and narrow is the gate and few there be that find it, but at all events a man stands here on his merits; externals cannot help him.

If Stoicism diminished the importance of social distinctions between individuals, it tended also to promote harmony between states. There are for every man two laws, the law of his city and the law of the world-city, the law of custom and the law of reason. Of the two the second must have the greater authority, and must provide a norm to which the statutes and customs of cities should conform. Customs are various but reason is one, and behind variety of custom there ought to be some unity of purpose. Stoicism tended to conceive of a world-wide system of law having endless local branches. Localities might differ according to circumstances without being unreasonable, while the reasonableness of the whole system tended to keep the variation from becoming opposition. Substantially this is not unlike the harmony or 'union of hearts' for which Alexander prayed. Everywhere in the Hellenistic world there were great numbers of cities and other local authorities with more or less autonomy. The kingdoms held these together with a common or king's law. Between the cities arbitration became a recognized and widely practised way of settling disputes. In internal government the adjudication of private disputes by judicial commissions called in from other cities largely displaced the old popular juries.[1]

Both procedures implied a comparison of customs, an appeal to equity, and ultimately the growth of a common law—the circumstances in which natural law has always exerted its greatest influence. For later history the incidence of the Stoic idea of a higher law on Roman law had a greater importance, but the nature of its influence seems to have been the same from the start. It held up an ideal of reasonableness and equity as a means of criticizing law at a time when positive law was likely to be narrowly customary. The point is not merely the assertion that positive law should be equitable; the Greeks had always believed that the law provides a moral code and a general rule of right. What the Stoics added to this was the doctrine of two laws, the customary law of the city and the more perfect law of nature. The use of equity as a principle of criticism requires a clear perception that justice cannot be identified with law as it is. The world-city of the Stoics was already on the way to becoming the City of God of later Christian thought.

THE REVISION OF STOICISM

The general principles of the Stoic philosophy remained always what Chrysippus left them at the close of the third century. But these

[1] Tarn, *op. cit.*, p. 77.

principles underwent important changes which had the effect of adapting them to popular understanding and acceptance, and especially to acceptance at Rome. The difficulty with earlier Stoicism arose largely from the elements of Cynicism that remained implicit in it—a tendency to think of the wise man as a being quite unlike ordinary mortals and so aloof from ordinary concerns, and a corresponding tendency not to bring the law of nature into relation with the actual variety of custom and usage. The cause of the readjustment was largely the incisive negative criticism of the Sceptic Carneades. By the second century Stoicism had attained a place among the Schools which warranted a lifetime devoted to its criticism; Carneades is said to have inquired jocularly, "If it were not for Chrysippus, where should I be?" Carneades' criticism attacked Stoicism all along the line, in its theology, its psychology, and of course with respect to the theory of natural justice. So far as it concerned political theory the gist of the criticism appears to have been, first that the Stoic wise man is a monstrosity, like nothing in nature, and utterly inhuman in his effort to extirpate all feeling and emotion. This criticism was quite justified so far as the theory was concerned, though the Stoics were in general better than their theory. Second, Carneades pointed out the difficulty of believing that there is a universal law of justice in the face of the discrepancies that actually exist in moral belief and practice. Carneades himself asserted that men are, in fact, governed wholly by self-interest and prudence, for which justice is merely an honorific title.

The answer to these criticisms was not precisely a reconstruction of Stoicism but rather its modification by the inclusion in it of ideas drawn especially from Plato and Aristotle. By the end of the second century a world-wide culture needed, and perhaps tried consciously to create, a world-wide philosophy, which could hardly be made fit for popular adoption except by the inclusion of elements syncretized from many sources. By this time, also, it was possible to go back to the great philosophers of the fourth century without being repelled by their absorption in the city-state, which had been a dead issue longer than men could remember. This is the first of the many occasions on which a return to the classical tradition in philosophy was the means to a more humane view of life and social relations. So far as Stoicism was concerned, this work was done by Panaetius of Rhodes, who headed the School shortly before the close of the second century. Stoicism lost certainly in logical rigour, but it gained enormously in its urbanity and in the appeal which it was able to make to educated men who cared nothing for the technicalities of the Schools. And this was a matter of first-rate importance in respect to the social and political influence that it could exert. The great work of Panaetius was to restate Stoicism in a form such that it could be assimilated by Romans of the aristocratic class, who knew nothing of philosophy and who yet

were fired by enthusiasm for the learning of Greece, so different from anything that Rome could produce for herself. No other Greek system was so well qualified as Stoicism to appeal to the native virtues of self-control, devotion to duty, and public spirit in which the Roman took especial pride, and no political conception was so well qualified as the Stoic world-state to introduce some measure of idealism into the too sordid business of Roman conquest. The point of contact at the critical stage—the third quarter of the second century—was in the relation of two Greeks, Panaetius and Polybius, personal friends, to the group of aristocratic Romans that formed the circle about Scipio Aemilianus.

In effect what Panætius did was to turn Stoicism into a kind of philosophy of humanitarianism, his concessions being of the sort required to meet the objections advanced by Carneades. He admitted the moral justification of the nobler and more public-spirited ambitions and passions and denied that the wise man should strive for complete cessation of feeling. In place of self-sufficiency he set up an ideal of public service, humanity, sympathy, and kindness. What is of even greater importance, he abandoned the opposition between an ideal community of wise men and the everyday social relationships. Reason is a law for all men, not merely for the wise. There is a sense in which all men are equal, even after allowance has been made for the inevitable differences of rank, native endowment, and wealth. They ought all to have at least that minimum of rights without which human dignity is impossible, and justice requires that the law should recognize such rights and protect men in the enjoyment of them. Justice is, therefore, a law for states, the bond that holds them together, not, of course, in the sense that a state cannot be unjust, but in the sense that, in so far as it becomes so, it loses that ground of harmony which makes it a state. This theory of the state, probably the work of Panaetius, is preserved in Cicero. The humanitarianism of Panaetius' philosophy left its impression strongly upon all the Roman Stoics.

> The unity of the human race, the equality of man and therefore justice in the state, the equal worth of men and women, respect for the rights of wives and children, benevolence, love, purity in the family, tolerance and charity towards our fellows, humanity in all cases, even in the terrible necessity of punishing criminals with death—these are the fundamental ideas which fill the books of the later Stoics.[1]

To Polybius is due the earliest extant history of Rome and the first study of Roman political institutions. His history accepts the world-state under Roman domination as a fact. He tries to follow the course of events from Spain to Asia Minor, and to show "by what means, and thanks to what sort of constitution, the Romans subdued the world in less than fifty-three years." In his sixth book he offers a theory of the

[1] Jacques Denis, *Histoire des théories et des idées morales dans l'antiquité* (1856), Vol. II, pp. 191 f.; quoted by Janet, *Histoire de la science politique* (1913), Vol. I, p. 249.

Roman constitution, which probably reflects the ideas of Panaetius also, and which certainly commended itself to the Scipionic Circle. There is in history, Polybius believes, an inevitable law of growth and decay. This he explains by the tendency of all the unmixed forms of government to degenerate in characteristic ways: of monarchy to become tyrannous, of aristocracy to become oligarchical, and so on. He uses here the old sixfold classification of constitutions in Plato's *Statesman* and Aristotle's *Politics*, merely supplementing it by a more definite theory of the cycle that causes one form to run into another. The reason which he assigns for the strength of Rome is that it has unconsciously adopted a mixed constitution in which the elements are "accurately adjusted and in exact equilibrium." The consuls form a monarchical factor, the Senate an aristocratic factor, and the popular assemblies a democratic factor; but the true secret of Roman government lies in the fact that the three powers check each other and thus prevent the natural tendency to decay which would result if any one of them became too powerful. Polybius modified the old theory of mixed government, long a commonplace, in two respects. First, he made the tendency of the unmixed governments to degenerate an historical law, but his cycle is formed on Greek experience and does not fit the development of the Roman constitution at all. Second, his mixed government is not, like Aristotle's, a balance of social classes but of political powers. Here he probably drew upon the Roman legal principle of collegiality by which any magistrate could impose a veto barring action by any other magistrate having an equal or a less *imperium*. Polybius thus gave to mixed government the form of a system of checks and balances, the form in which it passed to Montesquieu and the founders of the American constitution.

So far as historical accuracy is concerned, Polybius' analysis of the Roman constitution was not more penetrating than Montesquieu's analysis of the English constitution. The tribunes of the people—the most important of all the magistracies in later constitutional development—do not fit into his scheme at all. Like Montesquieu he grasped only a passing phase of the constitution he was examining. Indeed, the theory of the mixed government had only temporary importance in the transference of Stoic ideas to Rome. Doubtless Roman aristocrats during the later days of the Republic were flattered to hear that their ancestral constitution had copied by instinct the greatest discovery of Greek political science. Doubtless, also, the Stoic world-state lent itself easily to a kind of sentimental imperialism which enabled the conquerors to imagine that they were assuming the white man's burden and were bringing the blessings of peace and order to a politically incompetent world. Finally, there was a special historical circumstance at the end of the second century B.C.—the attempted reforms of Tiberius Gracchus in 133 by a frank appeal to the opposed interests of

economic classes—which made an appeal to a *concordia ordinum* the appropriate reaction of aristocratic republicans. The theory of the mixed state bulked large in the thought of Cicero, but it was only the forlorn hope of the Republic. The direct line of development under the empire was towards world-wide Roman citizenship, achieved by the Edict of Caracalla in A.D. 212, and the abolition of class-distinctions. The implied egalitarianism of this movement was much more in the spirit of Roman Stoicism than the form which Stoicism temporarily assumed under the influence of Panaetius and Polybius.

THE SCIPIONIC CIRCLE

The permanently significant result of the incidence of Stoicism upon the Scipionic Circle lay in the fact that it affected the men who undertook the earliest studies in Roman jurisprudence. Panaetius' restatement of Stoicism appeared to these Romans of the ruling class to offer the means for preserving the best of the older Roman ideals, enlightened by the cultivation of art and letters, and harmonized by a broader sympathy, goodwill, and gentleness. This the Romans named *humanitas* —a corrective for the crudeness of a society drunk with power and unenlightened by taste or ideas and a means of idealizing conquest. Through the Scipionic Circle, or men intimately associated with its members, this ideal was brought to bear at a critical period upon the study of Roman law. There can be no question that these earliest attempts at systematic jurisprudence were made by men strongly influenced by Stoicism.[1]

The way had been prepared by the history of the law itself before Stoicism came to Rome. The law of Rome, like most systems of ancient law, had been at the start the law of a city, or more precisely, of a very limited body of citizens who were born to it as part of their civic heritage. It combined religious ceremonial and ancestral formularies which made it inapplicable to anyone not by birth a Roman. As Roman political power and wealth grew, there came to be a larger and larger body of alien residents in Rome who had to transact business both among themselves and with Romans. Thus it became practically necessary to take legal cognizance of their doings in some way or other. About the middle of the third century B.C. the Romans met this problem by creating a special judge (the *praetor peregrinus*) to handle this class of business. Since no ceremonial law was applicable, all sorts of informalities in procedure had to be permitted, and, for the same reason, formal law had continually to be pieced out by considerations of equity, fair dealing, and common sense; in short, by taking into consideration what good business practice regarded as honest and fair. In this way

[1] See *Cicero on the Commonwealth*, ed. by Sabine and Smith (1929), Introduction, p. 36.

an effective body of law grew up, largely stripped of formality and conforming in general to prevailing ideas of honourable dealing and public utility, to which the lawyers had already given the name *ius gentium*, the law that is common to all peoples. The process of its formation was in substance not different from that which brought about English Mercantile Law. And just as the latter was finally incorporated into the main body of English Law, so the *ius gentium* affected the development of Roman Law. In fact, because it was more equitable and reasonable and altogether better suited to the times than the old strict law, it co-operated with other factors to enlighten the practice of the whole body of Roman Law.[1]

The *ius gentium* was a legal concept with no particular philosophical meaning, while *ius naturale* was a philosophical term made by translating Stoic Greek into Latin. In effect the two very nearly coalesced. The two concepts were able to interact fruitfully, for general acceptance and practice were properly felt to give some guarantee of substantial justice, at least as compared with local custom, while they in turn gave the rule of reason a point of contact with practice. Thus the ideal law of the Stoics and the positive law of states were brought into co-operation. The effect upon jurisprudence in the end proved to be exceedingly beneficial. The conception of natural law brought enlightened criticism to bear on custom; it helped to destroy the religious and ceremonial character of law; it tended to promote equality before the law; it emphasized the factor of intent; and it mitigated unreasoning harshness. In short, it set before the Roman lawyers the ideal of making their profession an *ars boni et aequi*.

In order to appreciate the full accomplishment of the Stoic political philosophy it is necessary to reflect upon the long road that political society had travelled in the two centuries that elapsed after the death of Aristotle. Compared with Athens in 322 the Mediterranean world of two centuries later was almost modern. It was at all events a society that included the effectively known world, in which wide communication was habitual, and in which local differences had a small and a diminishing importance. Accepting as accomplished fact the wreckage of the city-state and the impossibility of its self-centred provincialism, of its rigid distinction between citizens and foreigners, and of a citizenship limited to those who could actually have a share in governing, Stoicism had boldly undertaken to reinterpret political ideals to fit the Great State. It had outlined the conception of a world-wide human brotherhood united in the bonds of a justice broad enough to include them all. It had proposed the conception that men are by nature equal, despite differences of race, rank, and wealth. It had insisted that even the Great State, no less than the city, is an ethical union which ought

[1] See "The Development of Law under the Republic," by F. de Zulueta, *Cambridge Ancient History*, Vol. IX (1932), pp. 866 ff.

to lay a moral claim upon its subjects' loyalty and not merely exact their obedience by overmastering force. However much honoured in the breach by political practice, these conceptions of what human relations ought to be could never thereafter be altogether omitted from the political ideals of the European peoples.

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CHAPTER IX

CICERO AND THE ROMAN LAWYERS

By the beginning of the first century before Christ the political processes which began with Alexander's conquest of the East had in a large measure completed themselves. The whole Mediterranean world had been cast into the melting-pot and had become in no small degree a single community. The city-state had ceased to count, and there were no politically self-conscious nations such as the modern era has produced. Already it was apparent that the successor to Macedonia and also to Egypt and the Asiatic Kingdoms would be Rome, and that the known civilized world would be united under a single political rule, as, indeed, happened in the course of the century following. By the beginning of the first century, also, the Stoic philosophy had spread the ideas of a world-state, of natural justice, and universal citizenship, though these terms had an ethical rather than a legal sense. The stage was set for the further development and clarification of these philosophical ideas. The more negative ethics of the Epicureans and the Sceptics—the identification of 'nature' with individual self-interest—continued to exist, but the immediate future, at least, lay with the ideas developed by the Stoics. These had now become so dispersed that they were ready to lose their identification with any philosophic system and become the common property of educated men.

These ideas included a number of convictions having an ethical or a religious import but no very high degree of philosophical precision. With an ever-increasing tendency of the Schools to borrow from one another, they had even lost some of the precision which they had in the Stoicism of Chrysippus, as was to be expected when they became current in a culture that was substantially world-wide. They included the belief that the world is the subject of divine government by a God who is, in some sense, reasonable and good, and who stands therefore in a relation to men that may be compared with that of a father to his children. They included, also, the belief that men are brothers to one another and members of a common human family, in which their rationality makes them as a race akin to God and in some fundamental way alike, even after allowance has been made for the distinctions which diversity of language and local custom create among them. Hence there are some rules of morality and justice and reasonableness in conduct which are binding upon all men, not because they are laid

down in the positive law or because a penalty follows their violation, but because they are intrinsically right and deserving of respect. Finally, and perhaps vaguest of all, men were felt to be fundamentally 'social' in their nature. This idea had no such precision as Aristotle's theory that man is an animal who reaches the highest stage of his development in the civilization of the city-state. It suggested merely that respect for the laws of God and man is a native endowment of human nature, and that by following the lead of this innate reverence he fulfils his own nature, while he stultifies himself if he elects to do the opposite.

The development of these ideas, in the first century before Christ and in the two or three centuries thereafter, followed two main lines. The one continued in the direction already indicated by the influence of Stoicism upon the beginnings of Roman jurisprudence; it had the effect of embedding natural law in the philosophical apparatus of the Roman Law. The other had to do with the religious implications of the idea that law and government are rooted in the plan of Divine Providence for the guidance of human life. In both cases the development of a political philosophy was incidental. Of the writers to be considered, only Cicero was avowedly a political theorist, yet his effort to deal specifically with the political problems of the Roman Republic was the least important part of his work. But though a political theory was incidental to more general purposes—in the one case to the construction of a system of law and jurisprudence and in the other to the construction of a theology and an ecclesiastical organization—the resulting modes of political thought departed widely from the point of view that had prevailed in Greek political theory and exerted a profound influence upon political reflection in the centuries following. Legalism—the presumption that the state is a creature of law and is to be discussed not in terms of sociological fact or ethical good but in terms of legal competence and rights—had hardly existed in Greek thought; it has been an intrinsic part of political theory from Roman times to the present. The relation of the state to religious institutions and of political philosophy to theology had scarcely been problems for the Greeks, but they set the chief problems and coloured the discussion of every problem throughout the Middle Ages and well down into modern times. In the history of political theory, therefore, the changes wrought in the age just before and not long after the beginning of the Christian era were of momentous importance, though they produced no systematic treatises on political philosophy.

This chapter and the following will deal respectively with these two tendencies, the legal and the theological. In respect to dates they lie nearly parallel to one another. Perhaps a word of explanation is required for allocating Cicero to the first and Seneca to the second, thus violating a chronological arrangement and also, as it may seem, slurring

over the break which might be assumed to have occurred with the rise of Christianity. The reason for including Cicero in the same chapter with the lawyers is not, of course, either that he was a great jurist, for he was not, or that only lawyers read him. It is merely that his political ideas seem to have a secular cast and so a relatively close affinity with those of the lawyers. Seneca, on the other hand, gave a definitely religious bias to his philosophy. The reason for including Seneca with the Christian Fathers is to mark the fact that, in the beginning, the rise of Christianity did not carry with it a new political philosophy. Christianity itself and its ultimate establishment as the legal religion of the empire were the consummation of social and intellectual changes that had long been at work and which affected almost equally thinkers who never embraced the new faith. So far as political ideas are concerned, those of the Fathers were for the most part those of Cicero and Seneca. For purposes of historical accuracy there is no reason why the Christian era should be taken as beginning a new period in political thought.

CICERO

The political thought of Cicero is not important because of its originality; his books were frankly compilations, as he himself avows. They had, however, one merit which is far from negligible: everybody read them. An idea once embedded in Cicero was preserved to the reading public for all future time. So far as his political thought is concerned, his philosophy was the form of Stoicism which Panaetius had produced for a Roman public and transmitted to the Scipionic Circle. In fact, nearly all that is known of this philosophy as it stood at the beginning of the first century before Christ has to be gathered from Cicero. His own political treatises, the *Republic* and the *Laws*, were written at about the middle of the century and are the best index of political thought at Rome, especially in conservative and aristocratic circles, during the last days of the Republic.

For the understanding of Cicero and his historical importance it is necessary to distinguish rather sharply between the immediate purpose for which he wrote and the long-time influence that he exerted. His influence was very great, but what he attempted was a total failure, if not actually an anachronism, in its own time. The moral purpose for which he wrote was to commend the traditional Roman virtue of public service and the pre-eminence of the statesman's career, enlightening and harmonizing these with a tincture of Greek philosophy. His political object was nothing less than to turn back the clock and restore the republican constitution to the form that it had had before the revolutionary tribunate of Tiberius Gracchus. This explains his adoption in the *Republic* of the younger Scipio and Laelius as the heroes

of the dialogue. Needless to say, this object had little reality when Cicero wrote and none at all within a generation after his death.

To this part of his political theory must be assigned two ideas to which he attached great importance but which, in the age under discussion, had hardly more than antiquarian interest: a belief in the excellence of the mixed constitution and the theory of the historical cycle of constitutions. Both these he derived from Polybius, and perhaps also from Panaetius, though he endeavoured to modify them in the light of his own understanding of Roman history. In fact, Cicero had a really promising plan, if only he had possessed the philosophical capacity to carry it out. This was to set forth a theory of the perfect state (a mixed constitution), by permitting its principles to be developed in the course of a history of the Roman constitution (according to the theory of the cycle). Contributed by many minds working under diverse circumstances and embodying piecemeal the solutions of political problems as they arose, the constitution of Rome, as Cicero conceives, was the most stable and perfect form of government that political experience had evolved. By tracing its development and analysing its parts in relation to one another it should be possible to arrive at a theory of the state in which mere speculation is reduced to a minimum. Unfortunately, however, Cicero lacked the originality to strike out a new theory for himself, in line with Roman experience and in defiance of his Greek sources. The Polybian cycle—the orderly alternation of good and bad constitutions, from monarchy to tyranny, from tyranny to aristocracy, from aristocracy to oligarchy, from oligarchy to moderate democracy, and from democracy to mob-rule—had been commendable chiefly for its logical neatness, but such empirical observation as lay behind it was that of the city-states. Cicero was uncomfortably aware that it did not fit his ideas of Roman history, and in the event he did little more than render lip-service to the theory of the cycle while robbing it even of logical neatness. In a somewhat similar way he praised the advantages of a mixed constitution, the type of which he believed to be Rome, without even making clear what Roman institutions he took to represent each element of the composite. His account of the matter justifies Tacitus' gibe that it is easier to praise a mixed constitution than to realize one. The intention to sketch a theory of the state in close relation to Roman institutional history was laudable, but it was not to be realized by a man who took his theory ready-made from Greek sources and grafted it upon an account of Roman history.

Cicero's true importance in the history of political thought lies in the fact that he gave to the Stoic doctrine of natural law a statement in which it was universally known throughout western Europe from his own day down to the nineteenth century. From him it passed to the Roman lawyers and not less to the Fathers of the church. The most important passages were quoted times without number throughout the

Middle Ages. It is a significant fact that, though the text of the *Republic* was lost after the twelfth century and not recovered until the nineteenth, its most striking passages had already been excerpted into the books of Augustine and Lactantius, and so had become matters of common knowledge. The ideas were, of course, in no sense original with Cicero but his statement of them, largely in Latin expressions of his own devising to render the Stoic Greek, became incomparably the most important single literary means for spreading them through western Europe. A few of Cicero's great passages must be kept in mind by anyone who wishes to read political philosophy in the centuries that followed.

First of all, there is a universal law of nature arising equally from the fact of God's providential government of the world and from the rational and social nature of human beings which makes them akin to God. This is, as it were, the constitution of the world-state; it is the same everywhere, and is unchangeably binding upon all men and all nations. No legislation that contravenes it is entitled to the name of law, for no ruler and no people can make right wrong:

> There is in fact a true law—namely, right reason—which is in accordance with nature, applies to all men, and is unchangeable and eternal. By its commands this law summons men to the performance of their duties; by its prohibitions it restrains them from doing wrong. Its commands and prohibitions always influence good men, but are without effect upon the bad. To invalidate this law by human legislation is never morally right, nor is it permissible ever to restrict its operation, and to annul it wholly is impossible. Neither the senate nor the people can absolve us from our obligation to obey this law, and it requires no Sextus Aelius to expound and interpret it. It will not lay down one rule at Rome and another at Athens, nor will it be one rule to-day and another to-morrow. But there will be one law, eternal and unchangeable, binding at all times upon all peoples; and there will be, as it were, one common master and ruler of men, namely God, who is the author of this law, its interpreter, and its sponsor. The man who will not obey it will abandon his better self, and, in denying the true nature of a man, will thereby suffer the severest of penalties, though he has escaped all the other consequences which men call punishments.[1]

In the light of this eternal law all men, as Cicero insists in the most unequivocal terms, are equal. They are not equal in learning, and it is not expedient for the state to try to equalize their property, but in the possession of reason, in their underlying psychological make-up, and in their general attitude towards what they believe to be honourable or base, all men are alike. Indeed, Cicero goes so far as to suggest that it is nothing but error, bad habits and false opinions, that prevents men from being in fact equal. All men and all races of men possess the same capacity for experience and for the same kinds of experience, and all are equally capable of discriminating between right and wrong.

[1] *Republic*, III, 22. Trans. by Sabine and Smith.

> Out of all the material of the philosophers' discussions, surely there comes nothing more valuable than the full realization that we are born for Justice, and that right is based, not upon man's opinions, but upon Nature. This fact will immediately be plain if you once get a clear conception of man's fellowship and union with his fellow-men. For no single thing is so like another, so exactly its counterpart, as all of us are to one another. Nay, if bad habits and false beliefs did not twist the weaker minds and turn them in whatever direction they are inclined, no one would be so like his own self as all men would be like all others.[1]

Professor A. J. Carlyle has said that "no change in political theory is so startling in its completeness" as the change from Aristotle to a passage such as this.[2] The process of reasoning is, in truth, the exact opposite of that which Aristotle had used. The relation of free citizenship for Aristotle can hold only between equals, but because men are not equal, he had inferred that citizenship must be restricted to a small and carefully selected group. Cicero, on the contrary, infers that because all men are subject to one law and so are fellow-citizens, they must be in some sense equal. For Cicero equality is a moral requirement rather than a fact; in ethical terms it expresses much the same conviction that a Christian might express by saying that God is no respecter of persons. There is no implication of political democracy, though without some such moral conviction democracy would be hard to defend. What is asserted is that some measure of human dignity and respect is due to every man; he is inside and not outside the great human brotherhood. Even if he were a slave he would not be, as Aristotle had said, a living tool, but more nearly as Chrysippus had said, a wage-earner hired for life. Or, as Kant rephrased the old ideal eighteen centuries later, a man must be treated as an end and not as a means. The astonishing fact is that Chrysippus and Cicero are closer to Kant than they are to Aristotle.

The political deduction which Cicero draws from this ethical axiom is, that a state cannot exist permanently, or at least cannot exist in any but a crippled condition, unless it depends upon, and acknowledges, and gives effect to the consciousness of mutual obligations and the mutual recognition of rights that bind its citizens together. The state is a moral community, a group of persons who in common possess the state and its law. For this reason he calls the state, in a fine phrase, the *res populi* or the *res publica*, "the affair of the people," which is practically equivalent in meaning to the older English use of the word 'commonwealth.' This is the ground for Cicero's argument, against the Epicureans and Sceptics, that justice is an intrinsic good. Unless the state is a community for ethical purposes, and unless it is held together by moral ties, it is nothing, as Augustine said later, except "highway robbery on a large scale." A state may, of course, be tyrannous and

[1] *Laws*, I, 10, 28–29 (Trans. by C. W. Keyes).
[2] *A History of Mediaeval Political Theory in the West*, Vol. I (1903), p. 8.

rule its subjects by brute force—the moral law does not make immorality impossible—but in the measure that it does so, it loses the true character of a state.

> The commonwealth, then, is the people's affair; and the people is not every group of men, associated in any manner, but is the coming together of a considerable number of men who are united by a common agreement about law and rights and by the desire to participate in mutual advantages.[1]

The state, then, is a corporate body, membership in which is the common possession of all its citizens; it exists to supply its members with the advantages of mutual aid and just government. Three consequences follow: First, since the state and its law is the common property of the people, its authority arises from the collective power of the people. A people is a self-governing organization which has necessarily the powers required to preserve itself and continue its existence: *Salus populi suprema lex esto.* Second, political power when rightfully and lawfully exercised really is the corporate power of the people. The magistrate who exercises it does so by virtue of his office; his warrant is the law and he is the creature of the law.

> For as the laws govern the magistrate, so the magistrate governs the people, and it can truly be said that the magistrate is a speaking law, and the law a silent magistrate.[2]

Third, the state itself and its law is always subject to the law of God, or the moral or natural law—that higher rule of right which transcends human choice and human institution. Force is an incident in the nature of the state and is justified only because it is required to give effect to the principles of justice and right.

These general principles of government—that authority proceeds from the people, should be exercised only by warrant of law, and is justified only on moral grounds—achieved practically universal acceptance within comparatively a short time after Cicero wrote and remained commonplaces of political philosophy for many centuries. There was substantially no difference of opinion about them on the part of anyone in the whole course of the Middle Ages; they became a part of the common heritage of political ideas. There might, however, be considerable differences of opinion about the application of them, even among men who had not the remotest doubt about the principles themselves. Thus every one agrees that a tyrant is despicable and his tyranny a bitter wrong against his people, but it is not obvious just what the people are entitled to do about it, or who is to act in their behalf in doing it, or how bad the abuse must be before measures are justified. In particular, the derivation of political authority from the people does not of itself imply any of the democratic consequences which in modern times have been deduced from the consent of the governed. It does not say who speaks for the people, how he becomes

[1] *Republic*, I, 25.

[2] *Laws*, III, 1, 2.

entitled so to speak, or exactly who 'the people' are for whom he speaks —all questions of the utmost practical importance. The use of the ancient principle that political authority comes from the people to defend the modern forms of representative government was merely the adaptation of an old idea to a new situation.

THE ROMAN LAWYERS

The classical period in the development of Roman jurisprudence fell in the second and third centuries after Christ, and the writings of the great jurists of that age were excerpted and compiled into the *Digest* (or *Pandects*), which the Emperor Justinian caused to be published in 533. The political philosophy which is embedded in this body of legal writing is a repetition and elaboration of the theories found in Cicero.

Political theory forms an insignificant proportion of the whole work, the relevant passages being neither very numerous nor very extensive. The lawyers were jurists, not philosophers. For this reason it is often hard to tell just how seriously a philosophical idea is to be taken when it occurs; one does not know whether the writer himself regarded it as a polite embellishment or whether it really influenced his legal judgment. Obviously it was never part of the lawyers' purpose to formulate a political philosophy or to inject a philosophy into the law. The philosophy of the Roman lawyers was not philosophy in a technical sense, but certain general social and ethical conceptions, known to all intelligent men, which were in some way considered to be useful for their own juristic purposes. This makes it the more striking that they uniformly selected philosophical ideas belonging in the Stoic and Ciceronian tradition. The ideas of egoistic individualism, contained in the writings of the Epicureans and the Sceptics, must have been equally at their disposal, but the lawyers found no use for them. The fact that their interest in political theory was desultory and unsystematic does not mean that what they had to say was unimportant. The enormous authority attached to the Roman law throughout western Europe gave weight to any proposition which was a recognized part of it. Moreover, any general conception embedded in the law was certain to be known to all educated men as well as to lawyers, and ultimately by common report to many who were not scholars at all. In the end the Roman law became one of the greatest intellectual forces in the history of European civilization, because it provided principles and categories in terms of which men thought about all sorts of subjects and not least about politics. Legalist argumentation—reasoning in terms of men's rights and of the justifiable powers of rulers—became and remained a generally accepted method of political theorizing.

The lawyers excerpted in the *Digest*, as well as those who formulated Justinian's *Institutes* in the sixth century, recognized three main types of law, the *ius civile*, the *ius gentium*, and the *ius naturale*. The *ius civile* is, of course, the enactments or the customary law of a particular state, what would now be called positive municipal law. The other two classes are not quite so clear, either in respect to the distinction between *ius gentium* and *ius naturale* or in respect to the relation of both to the *ius civile*. Cicero had used both these terms but had apparently made no distinction of meaning between them. In origin, as was said in the preceding chapter, the term *ius gentium* belonged to the lawyers, while *ius naturale* was a rendering of Greek philosophical terminology. In meaning the two apparently coalesced, both for the earlier lawyers and for Cicero. They signified indifferently principles that were generally recognized and, therefore, common to the law of different peoples, and also principles that were inherently reasonable and right without reference to their occurrence in any system of law. The distinction was easy to overlook because common consent was taken as a test of validity. It seemed a fair presumption that what many peoples have arrived at independently is more likely to be right than what is peculiar to any single people.

As time went on the lawyers apparently saw a reason for distinguishing *ius gentium* from *ius naturale*. Gaius, writing in the second century, continued to use the terms synonymously, but Ulpian and later writers in the third century made a distinction, as did also the lawyers who prepared the *Institutes* in the sixth.[1] The distinction added precision to legal definition, but it perhaps signified also a more penetrating ethical criticism of the law; even what is generally practised may still be unjust and unreasonable. The main point upon which *ius gentium* and *ius naturale* are distinguished is slavery. By nature all men are born free and equal, but slavery is permitted according to the *ius gentium*.[2] It is hard to tell just what this natural liberty meant to the lawyers who asserted its reality so flatly, but in view of the efforts made, not without success, to throw legal safeguards about slaves and other oppressed classes, it seems reasonable to construe it as representing some moral reservation about practices whose legality was unquestionable according to all known codes. Perhaps the idea was, as Professor Carlyle suggests, that in some purer or better form of society slavery had not existed, or would not exist. At all events, such passages would be so understood after Christianity had made the story of the fall of man a common belief.

Whether or not they distinguished between *ius gentium* and *ius naturale*, none of the lawyers doubted that there is a higher law than the enactments of any particular state. Like Cicero they conceived of the law

[1] A. J. Carlyle, *A History of Mediaeval Political Theory*, Vol. I (1903), pp. 38 ff.
[2] *Digest*, 1, 1, 4; 1, 5, 4; 12, 6, 64; *Institutes*, 1, 2, 2.

as ultimately rational, universal, unchangeable, and divine, at least in respect to the main principles of right and justice. The Roman law, like the English common law, was only in small part a product of legislation. Hence the presumption was never made that law expresses nothing but the will of a competent legislative body, which is an idea of quite recent origin. It was assumed that 'nature' sets certain norms which the positive law must live up to as best it can and that, as Cicero had believed, an 'unlawful' statute simply is not law. Throughout the whole of the Middle Ages and well down into modern times the existence and the validity of such a higher law were taken for granted. As Sir Frederick Pollock says, the central idea of natural law, from the Roman Republic to modern times, was "an ultimate principle of fitness with regard to the nature of man as a rational and social being, which is, or ought to be, the justification of every form of positive law."[1]

In theory, therefore, the positive law is an approximation to perfect justice and right; these represent its objects and form its standards. It is, as Ulpian says, quoting Celsus, *ars boni et aequi*.

> Justice is a fixed and abiding disposition to give to every man his right. The precepts of the law are as follows: to live honourably, to injure no one, to give to every man his own. Jurisprudence is a knowledge of things human and divine, the science of the just and the unjust.[2]

Hence the lawyer is a "priest of justice," "the practitioner of a true philosophy, not a pretender to an imitation." It is not necessary to take Ulpian's rhetoric as a literal statement of fact. But it remains true that the Roman jurists did build up a more enlightened body of law than had ever existed, and though the changes they wrought had their economic and political causes, it is not to be imagined that they came about without reference to the ideals of the profession.

Natural law meant interpretation in the light of such conceptions as equality before the law, faithfulness to engagements, fair dealing or equity, the superior importance of intent to mere words and formularies, the protection of dependants, and the recognition of claims based on blood relationship. Procedure was more and more freed from mere formality; contracts were made to rest on agreement rather than on words of stipulation; the father's absolute control over the property and persons of his children was broken; married women became the full legal equals of their husbands in the control of their property and children; and finally great progress was made in throwing legal safeguards about slaves, partly by way of protecting them against cruelty, partly by making their manumission as easy as possible. A modern exponent of 'just law,' Rudolf Stammler, has regarded this belief in justice as the crowning glory of Roman jurisprudence.

[1] "The History of the Law of Nature," in *Essays in the Law* (1922), p. 31.
[2] *Digest*, 1, 1, 10.

> This, in my opinion, is the universal significance of the classical Roman jurists; this, their permanent worth. They had the courage to raise their glance from the ordinary questions of the day to the whole. And in reflecting on the narrow status of the particular case, they directed their thoughts to the guiding star of all law, namely the realization of justice in life.[1]

It should be noted that these reforms in the Roman law, though they were completed after the beginning of the Christian era, were not due to Christianity. The effective humanizing influence was Stoicism and there seems to be no evidence whatever of any effect of the Christian communities upon the great jurists of the second and third centuries. At a later date, in the time of Constantine and after, Christian influence can be seen, but it was not exerted in the directions mentioned above. Its purpose was to secure in one way or another the legal position of the church or of its officials, or to aid in carrying out policies of the church. Typical legal changes which the church secured for the protection of its interests were the right to receive property by will, the establishment of the jurisdiction of bishops' courts, the power to supervise charities, the repeal of the laws against celibacy, and the enactment of laws against heresy and apostasy.

Finally, the Roman law crystallized the theory, already contained in Cicero, that the authority of the ruler is derived from 'the people.' The theory was summed up in a sentence by Ulpian, repeatedly quoted, and there is no dissent by any of the lawyers either of the *Digest* or the *Institutes*:

> The will of the Emperor has the force of law, because by the passage of the *lex regia* the people transfers to him and vests in him all its own power and authority.[2]

The theory is to be understood, of course, in a strictly legal sense and it is couched in terms that had a definitely technical significance. In itself it justifies neither the implication of royal absolutism, which was sometimes derived from the first clause, nor of representative government, which the sovereignty of the people came to signify later. The latter meaning would have been especially absurd in the Roman Empire when Ulpian wrote. The idea behind Ulpian's statement is that expressed by Cicero, that law is the common possession of a people in its corporate capacity. This idea appears in the theory that customary law has the consent of the people, since custom exists only in the common practice. It appears, also, in the classification of the sources from which law is derived. Thus law might arise by the enactment of a popular assembly (*leges*), or by the vote of some authorized part of the people such as the plebeian assembly (*plebescita*), or by a decree of the Senate (*senatus consulta*), or by a decree of the Emperor (*constitutiones*), or by the edict of an ordinance-issuing official. In all cases, however, the source must be authorized and in the last resort all

[1] *The Theory of Justice*, Eng. trans. (1925), p. 127.

[2] *Digest*, 1, 4, 1.

forms of law go back to the legal activity inherent in a politically organized people. In a sense every established organ of government does 'represent' the people in some degree and some capacity, but there is obviously no implication that representation has anything to do with voting and still less that voting is a right inherent in every person. The 'people' is an entity quite different from the persons who happen at any given time to be included in it.

At the same time some essence has been preserved from the ancient doctrine that law is an 'impersonal reason' and that in consequence there is a broad moral distinction between lawful government and successful tyranny. Even though the former be often bad and the latter sometimes efficient, subjection to law is not incompatible with moral freedom and human dignity, while subjection to even the kindliest master is morally degrading. The Roman law preserved the spirit of Cicero's striking phrase: "We are servants of the law in order that we may be free."[1] And, indeed, there is no more astonishing evidence of the strength that this conviction had come to have in European morals than the fact of its preservation in a system of law which reached its maturity at a time when the personal power of the Emperors was often unlimited and when their authority rested frequently on nothing better than force. Yet the fact remains that in the long run the ideal embedded in the law was a permanent factor in European political civilization—a distillation from the old free life of the city-state—which was able to endure through and beyond an age in which all the servility of Oriental despotism had apparently been transplanted to Rome.

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[1] *Pro Cluentio*, 53, 146.

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CHAPTER X

SENECA AND THE FATHERS OF THE CHURCH

In one respect—the belief in human equality—the idea of a common race, as it was developed by the jurists, broke sharply with the scale of values which prevailed in the city-state. In another respect, however, the two were quite continuous. For Cicero as for Plato, to found or to govern states is the labour in which the human hero shows himself most godlike, and a life of political service is the crown of human blessedness. The well-centralized system of authority presented in the Roman law reflects not only the administrative unity of the Empire, but also the ancient conviction that the state is supreme among human institutions. In this tradition there was no thought of a divided allegiance in which another loyalty might compete with the claims of civic duty, and no impossible gulf between the 'dear City of Cecrops' and the 'dear City of God.' Yet this contrast between the earthly and the Heavenly City, drawn by a Roman emperor and the most conscientious ruler of his age, was symptomatic of a cleft that was opening in men's moral experience. The weary loyalty of Marcus Aurelius towards the station to which it had pleased God to call him, and his obvious longing for a more satisfying life, show how far even the pagan soul had travelled since the days when Cicero, in the Dream of Scipio, envisaged heaven as a reward reserved for distinguished statesmanship. The ripe fruit of Marcus's world-weariness was a church which claimed to be the spokesman for a spiritual life higher than any that earth afforded, but the fruit grew in a soil long prepared for it.

SENECA

The changing valuation placed upon a political career and the diminishing expectation that statesmanship would be able to deal successfully with social problems are clearly perceptible by a comparison of Cicero with Seneca, who wrote about a century later, and who, therefore, reflects Roman opinion in the early days of the Empire, as Cicero reflects it in the closing period of the Republic. The contrast is the more striking because there is little difference of a systematic sort between the philosophical beliefs of the two men; both held an eclectic Stoicism for which nature represents a standard of goodness and reasonableness. Both men, also, look upon the great age of the Republic

as the time at which Rome achieved her political maturity whence she has latterly declined. But there is this essential difference: Cicero has the illusion that the great day may be recaptured, for the minister of Nero the time of illusion has passed. Rome has fallen into senility, corruption is everywhere, and despotism is inevitable. Upon social and political matters Seneca already shows much of the despondency and pessimism that overshadows the Latin literature of the second Christian century.[1] The question is not whether there shall be absolute government but only who shall be the despot. Even dependence upon a despot is preferable to dependence upon the people, since the mass of men is so vicious and corrupt that it is more merciless than a tyrant. Clearly, then, a political career has little to offer the good man except the annihilation of his goodness, and clearly also the good man can do little for his fellows by holding political office. For similar reasons Seneca attached little importance to differences between forms of government; one is as bad or as good as another, since none can accomplish much.

Yet it was by no means Seneca's view that the wise man ought merely to withdraw from society. He insisted as strongly as Cicero upon the moral duty of the good man to offer his services in some capacity or other, and he was as decisive as Cicero in rejecting the Epicurean pursuit of private satisfaction sought by the neglect of public interests. Unlike Cicero, however, and indeed unlike all political and social philosophers before his time, Seneca was able to envisage a social service which involved no office in the state and no function of a strictly political sort. This gives a definitely new turn to the ancient Stoic doctrine that every man is a member of two commonwealths, the civil state of which he is a subject and the greater state, composed of all rational beings, to which he belongs by virtue of his humanity. The greater commonwealth is for Seneca a society rather than a state; its ties are moral or religious rather than legal and political. Accordingly the wise and good man renders a service to humanity even though he has no political power. He does this by virtue of his moral relation to his fellows or even through philosophical contemplation alone. The man who, by virtue of his thought, becomes a teacher of mankind, fills a place at once nobler and more influential than the political ruler. It would scarcely be forcing Seneca's meaning to say that the worship of God is itself a truly human service, as Christian writers taught.

The significance of Seneca's attitude in this respect would be difficult to exaggerate. Seneca's Stoicism, like that of Marcus Aurelius a century later, was substantially a religious faith which, while offering strength and consolation in this world, turned towards the contemplation of a spiritual life. This drawing apart of worldly and spiritual interests—the sense that the body is but "chains and darkness to the

[1] See Samuel Dill, *Roman Society from Nero to Marcus Aurelius* (1904), Bk. III, ch. i.

soul," and that "the soul must struggle continually against the burden of the flesh"[1]—was a real characteristic even of the pagan society in which Christianity grew up. The growing need for spiritual consolation gave to religion an ever higher place in men's regard and set it ever more apart from secular interests, as the only means of contact with a higher range of realities. The essentially secular unity of life in the classical age was breaking down, and religion was achieving more and more an independent footing beside or even above the life of the state. It was but a natural sequel to this growing independence when the interests of religion were able to embody themselves in an institution of their own, to represent on earth the rights and the duties which men shared as the members of a Heavenly City. Such an institution, already taking form in the Christian church, must by the very logic of its existence lay hold upon men's loyalty by a claim which it could not permit the state to adjudicate. Seneca's interpretation of the two commonwealths was only one of several surprising parallels between his thought and that of the Christians, parallels which produced in antiquity a body of forged letters supposed to have passed between him and St Paul.

Two other related aspects of Seneca's thought were closely connected with the prevailingly religious tone of his philosophy. On the one hand he was intensely conscious of the inherent sinfulness of human nature and on the other his ethics showed the tendency towards humanitarianism which became continually more marked in later Stoicism. Despite the fact that Seneca repeats the Stoic commonplaces about the self-sufficiency of the wise man, the moral pride and harshness of earlier Stoicism have greatly receded. The sense of human wickedness haunts him and wickedness is ineradicable; no one escapes it and virtue consists rather in an endless struggle for salvation than in its achievement. Probably it is this consciousness of sin and misery as a universal human quality that caused him to place so high a value on human sympathy and gentleness, virtues which had not been very characteristic of Stoicism in its more rigorous versions. Already the fatherhood of God and the brotherhood of man have taken on the connotation of love and goodwill towards all mankind which came to characterize Christian teaching. As the civic and political virtues dropped back into second place, the virtues of mercy, kindliness, charity, benevolence, tolerance, and love—together with the condemnation on moral grounds of cruelty, hatred, anger, and harshness towards dependants and inferiors—were given a far higher place in the moral scale than they ever had in earlier ethics. The effects of this humanitarianism were apparent in the classical Roman law, especially in placing safeguards about the property and the persons of women and dependent children, in protecting slaves, in a more humane treatment of criminals, and in a common policy of protecting the helpless.

[1] *Consol. ad Marc.*, 24, 5.

It is a curious fact that a strong feeling for the humanitarian virtues should have first appeared as the accompaniment of a growing sense of moral corruption, both being definitely departures from the ethical sentiments of the earlier period of antiquity. Probably both were aspects of a more contemplative attitude towards life, which now replaced the older belief that the supreme virtue was the service of the state.

Seneca's departure from the ancient belief that the state is the highest agency of moral perfection was strikingly marked by his glowing account of the Golden Age which, as he conceived, preceded the sophisticated age of civilization. In his Ninetieth Letter he described this idyllic state of nature with something approaching the rhetorical enthusiasm which Rousseau expended upon the same subject in the eighteenth century. In the Golden Age, as he believed, men were still happy and innocent; they loved a simple life without the superfluities and luxuries of civilization. They were not, indeed, either wise or morally perfect, for their goodness resulted rather from the innocence of ignorance than from practised virtue. In particular, in the state of nature as Seneca pictured it, men had not yet acquired that great agency of greed, the institution of private property; in fact, it was the growth of avarice which destroyed the condition of primitive purity. Moreover, so long as men remained pure, they had no need for government or law; they obeyed voluntarily the wisest and best men, who sought no advantage of their own in ruling over their fellows. But when men were smitten with the desire to make things their own, they became self-seeking and rulers became tyrants. The advance of the arts brought luxury and corruption. It was this train of consequences that made law and coercion necessary in order that the vices and corruptions of human nature might be curbed. In short, government is the necessary remedy for wickedness.

The glorification of an idyllic state of nature, already suggested in certain passages of Plato's *Laws* and now elaborated by Seneca, has played a not inconsiderable rôle in utopian political theory. Whether thrown back into the past, as by Seneca and Rousseau, or projected into the future, as by the utopian socialists, it has usually had the same purpose—to bring into high relief the vices and corruptions of mankind and to indict the political or the economic abuses of an age. In the case of Seneca the Golden Age was another expression of his haunting sense of decay in the Roman society of Nero's reign. For reasons that are not hard to understand, his view that private property did not exist in a state of nature would hardly be shared by lawyers, who apparently regarded ownership as strictly in accord with natural law. The closest analogue in the case of the lawyers was perhaps slavery, which, as was said in the preceding chapter, was sometimes regarded as belonging to *ius gentium* but not to *ius naturale*. In general Seneca's

conception of the law as a mere cure for sin was wholly at odds with Ulpian's description of it as a "true philosophy" and an *ars boni et aequi*. But Seneca's idea of the state of nature might well commend itself to Christian theologians. The belief in a primitive condition of purity was implied by the story of the fall of man, and certainly it became among Christian writers not uncommon to conceive this condition as one of communism and one in which force would not be needed. Such a view would be almost necessary after it became settled doctrine that poverty was morally superior to riches and monasticism to a secular life.

It is important to note, however, that this doctrine, whether in Seneca or in Christian writers, was in no sense a subversive attack upon property or upon law and government. What is implied is merely that these institutions represent an ethical second-best. In a perfect society, or with a purified human nature, they would not be necessary. But the wickedness of mankind being what it is, private property may well be a useful institution, and law supported by force may well be quite indispensable. It is easy to hold at once that government arises solely from human wickedness and yet that it is the divinely appointed means for ruling mankind in its fallen state and so has an indefeasible claim upon the obedience of all good men. This, in fact, became common Christian belief.

At the same time Seneca's representation of government as a more or less makeshift remedy for human evil was the index of an enormous shift in moral opinion, not only from the estimate set upon political institutions by the Greek philosophers but even from that supported only a short time before by Cicero. It would be hard to exaggerate the discrepancy between Seneca's view and the ancient conception expressed in Aristotle's belief that the city-state is the necessary condition of a civilized life and the only means for bringing human faculties to their highest form of development. The change implied by Seneca's position on the function of the state is precisely comparable to that implied by Cicero's position on human equality. Taken together the two changes undermine completely the ancient valuation of politics. In place of the supreme value of citizenship there is a common equality shared by all sorts and conditions of men; and in place of the state as a positive agency of human perfection there is a a coercive power that struggles ineffectually to make an earthly life tolerable. Though this revolutionary change in the scale of values is as yet only suggested, its implications were destined to be explored and to become more and more firmly embedded in the political philosophy of the Christian Fathers.

CHRISTIAN OBEDIENCE

The rise of the Christian church, as a distinct institution entitled to govern the spiritual concerns of mankind in independence of the state,

may not unreasonably be described as the most revolutionary event in the history of western Europe, in respect both to politics and to political philosophy. It by no means follows, however, that the political conceptions of the early Christians were in any way distinctive of them or specifically different from those of other men. The interests that went to the making of Christians were religious, and Christianity was a doctrine of salvation, not a philosophy or a political theory. The ideas of Christians upon the latter subjects were not very different from those of pagans. Thus Christians no less than Stoics could believe in the law of nature, the providential government of the world, the obligation of law and government to do substantial justice, and the equality of all men in the sight of God. Such ideas were widespread before Christianity appeared, and numerous familiar passages in the New Testament show that they were incorporated at once in Christian writings. Thus the author of The Acts reports St Paul's preaching to the men of Athens in terms familiar to anyone who had ever heard a Stoic lecture: "For in him we live, and move, and have our being; as certain also of your own poets have said."[1] Only the new religious teaching about the resurrection of the dead is incomprehensible to the Athenians. Similarly, St Paul writes to the Galatians, rejecting for the church differences of race or social position:

> There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female, for ye are all one in Jesus Christ.[2]

And to the Romans, asserting the law inherent in all human nature as contrasted with the Jewish law:

> For when the Gentiles, which have not the law, do by nature the things contained in the law, these, having not the law, are a law unto themselves.[3]

In general, it may be said, that the Fathers of the church, in respect to natural law, human equality, and the necessity of justice in the state, were substantially in agreement with Cicero and Seneca.[4] It is true that the pagan writers knew nothing of a revealed law, such as Christians believed was contained in the Jewish and Christian Scriptures, but the belief in revelation was in no way incompatible with the view that the law of nature also is God's law.

The obligation of Christians to respect constituted authority had been deeply embedded in Christianity even by its founder. When the Pharisees had attempted to entrap Jesus into opposition to the power of Rome, he had uttered the memorable words:

> Render therefore unto Caesar the things which are Caesar's, and unto God the things that are God's.[5]

[1] Acts, xvii, 28. [2] Galatians, iii, 28. [3] Romans, ii, 14.
[4] Carlyle, *op. cit.*, Vol. I (1903), Part III.
[5] Matthew, xxii, 21; cf. Mark, xii, 17; Luke, xx, 25.

And St Paul, in his letter to the Romans, had written the most influential political pronouncement in the New Testament:

> Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God. Whosoever therefore resisteth the power, resisteth the ordinance of God; and they that resist shall receive to themselves damnation. For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? Do that which is good, and thou shalt have praise of the same: For he is the minister of God to thee for good. But if thou do that which is evil, be afraid; for he beareth not the sword in vain: for he is a minister of God, a revenger to execute wrath upon him that doeth evil. Wherefore ye must needs be subject, not only for wrath, but also for conscience sake. For this cause pay ye tribute also: for they are God's ministers, attending continually upon this very thing. Render therefore to all their dues: tribute to whom tribute is due; custom to whom custom; fear to whom fear; honour to whom honour.[1]

It may well be true, as some historians suppose,[2] that this passage, and others to a similar effect, were written to combat anarchical tendencies existing in the early Christian communities, but if so, they accomplished their purpose. The words of St Paul became accepted Christian doctrine, and the obligation of civic obedience became an admitted Christian virtue which no responsible leader of the church denied. It is probably true that St Paul, like Seneca, believed that the magistrate's power was a necessary consequence of human sin; the ruler's work is to repress evil and encourage good. But as has already been said, this does not imply that respect for rulers is any less a binding obligation.

St Paul and other writers in the New Testament stress the view that obedience is a duty imposed by God, and this fact gives to the Christian teaching a different emphasis from the Roman constitutional theory, stressed by the lawyers, that the ruler's authority is derived from the people. Once the Jewish Scriptures were accepted, this view would naturally be strengthened by the account of the origin of Jewish kingship in the Old Testament.[3] The king of the Jews is habitually spoken of as the Lord's anointed; according to the tradition the kingship was established by God as a result of the rebelliousness of the people; and finally—a point not lost upon later ecclesiastical writers—he was instituted by being anointed at the hands of a prophet. In a sense the Christian conception of rulership always implied a theory of divine right, since the ruler is a minister of God. But modern constitutional controversies have sharpened the contrast between the two views in a way that no one thought of at first, or, indeed, for centuries afterwards. Even though authority were derivative from the people, there was no reason why respect for it might not be a religious duty; or, contrariwise,

[1] Romans, xiii, 1–7; cf. 1 Peter, ii, 13–17.
[2] See Carlyle, *op. cit.*, Vol. I, pp. 93 ff.
[3] See 1 Samuel, viii–x.

if the ruler were ordained of God, he might still owe the particular form of his office to the institutions inherent in a people. In fact, the underlying purpose of the two theories might be said to be identical. For St Paul and for all Christians it was the 'office' rather than its holder to which respect was due; the personal virtues or vices of a ruler had nothing to do with the matter. A bad ruler is a punishment for sin and must still be obeyed. For the lawyers the choice of the people signified broadly the constitutional or legal nature of the power exercised. Both views assumed—the one as law or the other as theology—the difference between the authority inherent in an institution and the merely arbitrary power that an individual might possess. For this reason both views could stand side by side without incompatibility.

DIVIDED LOYALTY

Respect for lawful authority, then, was a duty which no Christian denied. Yet it was a fact of the utmost importance that the Christian was inevitably bound to a twofold duty such as had been quite unknown to the ethics of pagan antiquity. He must not only render unto Cæsar the things that are Cæsar's, but also to God the things that are God's, and if the two came into conflict, there could be no doubt that he must obey God rather than man. The possibility of such a conflict was implicit in any view, such for example as Seneca's, which put civic duties into second place, but there is no evidence that Seneca was aware of the possibility. The Christian, who was a member of a persecuted minority, could hardly avoid being aware of it, nor can it be denied that a conscientious emperor like Marcus Aurelius, in whose reign persecution flourished, was right in his conviction, firm if somewhat vague, that Christianity contained an idea incompatible with the Roman virtue of unlimited obligation to the state. The Christian, who believed that his religion was a truth revealed by God to guide him into a salvation far higher than any destiny that this world afforded, could not but believe that that religion imposed duties from which no emperor could absolve him and in the light of which the admitted duty of civic obedience must be weighed and judged. The principle was in one sense old—that every man is a citizen of two states—but the application was new, since for the Christian the greater state was not merely the human family but a spiritual realm, a true kingdom of God, in which man was the heir to eternal life and to a destiny immeasurably transcending the life which any earthly kingdom could offer him.

It is true that Christianity was not unique in posing a problem of this sort. The properties of Christianity as a 'spiritual' religion were shared more or less by other religions which existed in the Roman world. The older native cults of Greece and Rome—though sedulously

fostered for political purposes—had substantially yielded, before the end of the second century, to a variety of religions of Oriental origin, of which Christianity was only one. All these religions were similar in offering salvation and eternal life to a sin-stricken and world-weary generation, and in supporting a class of professionally trained priests skilled in the art of offering spiritual consolation.

> In the heavy atmosphere of a period of oppression and powerlessness, the despondent souls of men aspired with ineffable ardour to the radiant spaces of heaven.[1]

This was a prevailing social characteristic of the age, upon which the spread of Christianity and the other Oriental religions depended. With the rising tide of religious and other-worldly interest, and with the rise to independence of religious institutions, a break with the old tradition which made religion an adjunct of the state was inevitable. Christianity—the church beside the state—represented the final breakdown of the old imperial idea and the starting-point of a radically new development.

The world-empire had always been impossible without religious support. A congeries of peoples and tribes and cities, lacking any such strong tie as the modern sentiment of nationality, could find no other practicable bond of union except a common religion. From the beginning Alexander and his successors had been obliged to copy the practice of the East in this respect, and Rome was forced to embark upon the same course. In the eastern provinces the earlier emperors were deified in life as well as after death, but the constitutional restrictions that descended from the Republic to the Empire held back the process in Italy. But constitutionalism grew steadily more shadowy, and with the reorganization of the Empire under Diocletian and the establishment by that emperor of Mithraism as the official religion of the state, Rome was transformed into something comparable with an Oriental caliphate. Even this arrangement proved only a temporary expedient. The growth in the power of religion which first made possible, and then necessary, the deification of the emperor, ended by making it impossible. For what was required was not an official religion, which could still be regarded as largely an appendage of the state, but rather a religion with its autonomous ecclesiastical organization, standing beside the state as its equal and, indeed, in respect to the prevailing estimate of the interests it represented, as its superior. The Christian obviously could not admit, consistently with his religion, the claims of the deified emperor to be the court of last resort in spiritual questions. But once this claim of Rome to be the source of religious as well as of political authority was set aside, he could co-operate loyally as either a citizen or soldier of the Empire. The church was,

[1] Franz Cumont, *After Life in Roman Paganism* (1922), p. 40. See also the same author's *The Oriental Religions in Roman Paganism*, Eng. trans. (1911), ch. ii.

in fact, well adapted to bring support to secular authority, to teach the virtues of obedience and loyalty, and to train its members in the duties of citizenship.

The novelty of the Christian position lay in its assumption of a dual nature in man and of a dual control over human life corresponding to its twofold destiny. The distinction between spirituals and temporals was of the essence of the Christian point of view, and for this reason the relation between religious and political institutions presented to the Christian a new problem. His convictions on this matter, from the standpoint of the old imperial conception of political obligation, were fundamentally treasonable, just as the imperial ideal was, from a Christian standpoint, fundamentally pagan and irreligious. For the pagan the highest duties of morality and religion met in the state, symbolically in the person of the emperor, who was at once the supreme civil authority and a divinity. For the Christian the duties of religion were a supreme obligation, owed directly to God, and the outgrowth of a relationship between a spiritual deity and the spiritual essence in human nature. The interference of an earthly force in this relationship was something which, in principle, a Christian could not allow, and for this reason the quite formal ceremony of paying religious honour to the emperor's genius was a requirement which he must refuse. An institution which had in its keeping this higher relationship, and which existed to provide a medium for the communication of the soul with God, must claim to be distinguished from, and in some degree to be independent of, those secular institutions which existed to provide the means of bodily and earthly existence. For this reason Christianity raised a problem which the ancient world had not known—the problem of church and state—and implied a diversity of loyalties and an internality of judgment not included in the ancient idea of citizenship. It is hard to imagine that liberty could have played the part it did in European political thought if ethical and religious institutions had not been conceived to be broadly independent of, and superior in importance to, the state and legal enforcement.

It was of the essence of the situation that the church had first grown strong, both in doctrine and ecclesiastical organization, before its legal establishment; this fact made it a valuable adjunct to the Empire. So long as it was merely a voluntary association, and frequently an unlawful one, its relation to the state called for no special theory. After its establishment, however, the need for insisting upon its autonomy in spiritual matters was more apparent. On the other hand, no ecclesiastical statesman ever supposed that the church and the state could fail to be always in contact with one another, just as soul and body were constantly joined in human life though they were of different essence. The independence of church and state was assumed to include the mutual helpfulness of the two, both being divinely appointed

agencies for the government of human life in this world and the world hereafter. The duty of civic obedience was an undoubted Christian virtue as truly imposed upon man by God as any other moral obligation, and yet it was not an absolute obligation. The support which the discipline of the church could give to the state was the real reason for its legal establishment by Constantine. On the other hand, the duty of a Christian prince to nourish and protect the church was equally undoubted, and this duty could not fail to include maintaining at need the purity of its doctrine. This duty was not thought to be in any way contrary to the secular nature of a ruler, nor was it supposed that the prince was thereby made the judge of doctrine. The Christian position implied two classes of duties, spiritual and secular, which might on occasion come into apparent opposition but which could not be ultimately irreconcilable, and similarly it implied two institutional organizations which remained distinct, though each needed, and in all normal cases received, the support and aid of the other.

The possibilities of conflict and ambiguity in such a conception are apparent; indeed, it is hard to imagine any really Christian form of society in which difficulties of this sort might not arise, since they reflect a complication in the moral life itself. Nothing is easier, therefore, than to show that church and state were not really independent, since in the period of its establishment the church must depend largely upon the emperor's support, while at a later date its greater power might threaten the autonomy of secular authority. The difficulties of the problem may be illustrated by the inconsistencies of a thinker like St Augustine with respect to religious toleration. In principle the acceptance of Christianity could not depend merely on force without a gross invasion of spiritual freedom, and yet the Christian statesman, believing as he sincerely did that heresy was a deadly sin, could not contemplate its spread unopposed by those who were responsible for the earthly as well as the eternal welfare of their subjects. Thus in his earlier life Augustine opposed the use of force against the Manichaeans, while later he argued in his controversy with the Donatists that, for the good of his own soul, the heretic must be compelled to receive instruction. Similarly it was plain historical fact that the influence of Constantine was decisive in bringing about the defeat of the Arians at the Council of Nicaea, but obviously no Christian, without stultifying his faith, could believe that the orthodox doctrine of the Trinity had been settled by an imperial edict. The problem involved an elaborate delimitation of jurisdictions and even to the end of the Middle Ages jurisdictional disputes might arise, though for normal circumstances the lines were drawn with sufficient clearness. In the beginning the primary need was to emphasize the autonomy of the church in spiritual matters.

AMBROSE, AUGUSTINE, AND GREGORY

The view of churchmen in respect to these questions, and also the lack of sharp discrimination in the concepts employed, may be illustrated by reference to three great thinkers of the two centuries following the legal establishment of the church: St Ambrose of Milan in the second half of the fourth century, St Augustine in the beginning of the fifth, and St Gregory in the second half of the sixth. None of these men was concerned to work out a systematic philosophy of the church and its relation to the state; they belonged rather to the formative period of Christian thought and dealt with questions that were immediately pressing. But they all expressed views which formed an essential part of Christian conviction and which became an integral part of Christian thought upon the relations of the two institutions.

St Ambrose was especially notable for his strong statement of the autonomy of the church in spiritual matters. There is no reason to think that in this respect he differed from other Christians of his time, but his outspoken statement of the principle and his courageous adherence to it in the face of opposition made him an authority to whom Christian writers returned in all later controversies where the point arose. Thus he clearly asserted that in spiritual matters the church has jurisdiction over all Christians, the emperor included, for the emperor, like every other Christian, is a son of the church; he "is within the church, not above it."[1] He stated boldly in a letter to the Emperor Valentinian that in matters of faith "bishops are wont to judge of Christian emperors, not emperors of bishops." He questioned in no way the duty of obedience to civil authority, but he affirmed that it was not only the right but the duty of a priest to reprove secular rulers in a matter of morals, a precept which he not only taught but practised. On one famous occasion he refused to celebrate the Eucharist in the presence of the Emperor Theodosius because of his guilt in causing a massacre at Thessalonica, and on another he withheld it until the emperor had withdrawn an order which Ambrose regarded as injurious to the privileges of a bishop. In yet another case he steadfastly refused to surrender a church for the use of Arians upon order of the Emperor Valentinian. "The palaces belong to the Emperor, the Churches to the Bishop." He admitted the authority of the emperor over secular property, including the lands of the church, but church buildings themselves, as being directly dedicated to a spiritual use, he denied the right of the emperor to touch. At the same time, however, he definitely repudiated any right to resist with force the execution of the emperor's orders. He will argue and implore but he will not incite the people to rebel. According to Ambrose, therefore, the secular ruler is subject to the church's instruction in spiritual

[1] The quotations occur in Carlyle, *op. cit.*, Vol. I, pp. 180 ff., and footnotes.

matters and his authority over some ecclesiastical property, at least, is limited, but the church's right is to be maintained by spiritual means rather than by resistance. The precise limits between the two kinds of property were left vague.

The most important Christian thinker of the age now under discussion was Ambrose's great convert and pupil, St Augustine. His philosophy was only in a slight degree systematic, but his mind had encompassed almost all the learning of ancient times, and through him, to a very large extent, it was transmitted to the Middle Ages. His writings were a mine of ideas in which later writers, Catholic and Protestant, have dug. It is not necessary to repeat all the points upon which he was in substantial agreement with Christian thought in general and which have already been mentioned in this chapter. His most characteristic idea is the conception of a Christian commonwealth, together with a philosophy of history which presents such a commonwealth as the culmination of man's spiritual development. Through his authority this conception became an ineradicable part of Christian thought, extending not only through the Middle Ages but far down into modern times. Protestant no less than Roman Catholic thinkers were controlled by Augustine's ideas upon this subject.

His great book, the *City of God*, was written to defend Christianity against the pagan charge that it was responsible for the decline of Roman power and particularly for having caused the sack of the city by Alaric in 410. Incidentally, however, he developed nearly all his philosophical ideas, including his theory of the significance and goal of human history by which he sought to place the history of Rome in its proper perspective. This involved a restatement, from the Christian point of view, of the ancient idea that man is a citizen of two cities, the city of his birth and the City of God. The religious meaning of this distinction already suggested by Seneca and Marcus Aurelius became explicit in Augustine. Man's nature is twofold: he is spirit and body, and therefore at once a citizen of this world and of the Heavenly City. The fundamental fact of human life is the division of human interests, the worldly interests that centre about the body and the other-worldly interests that belong specifically to the soul. As has already been said, this distinction lay at the foundation of all Christian thought on ethics and politics.

St Augustine, however, made the distinction a key to the understanding of human history, which is and always must be dominated by the contest of two societies. On the one side stands the earthly city, the society that is founded on the earthly, appetitive, and possessive impulses of the lower human nature; on the other stands the City of God, the society that is founded in the hope of heavenly peace and spiritual salvation. The first is the kingdom of Satan, beginning its history from the disobedience of the Angels and embodying itself especially in the

pagan empires of Assyria and Rome. The other is the kingdom of Christ, which embodied itself first in the Hebrew nation and later in the church and the Christianized empire. History is the dramatic story of the struggle between these two societies and of the ultimate mastery which must fall to the City of God. Only in the Heavenly City is peace possible; only the spiritual kingdom is permanent. This, then, is Augustine's interpretation of the fall of Rome: all merely earthly kingdoms must pass away, for earthly power is naturally mutable and unstable; it is built upon those aspects of human nature which necessarily issue in war and the greed of domination.

A certain caution is needed, however, in interpreting this theory and especially in applying it to historical fact. It was not Augustine's meaning that either the earthly city or the City of God could be identified precisely with existing human institutions. The church as a visible human organization was not for him the same as the kingdom of God, and still less was secular government identical with the powers of evil. An ecclesiastical statesman who had depended on the imperial power for the suppression of heresy was not likely to attack government as representing the kingdom of the Devil. Like all Christians, Augustine believed that 'the powers that be are ordained of God,' though he also believed that the use of force in government was made necessary by sin and was the divinely appointed remedy for sin. Accordingly, he did not think of the two cities as visibly separate. The earthly city was the kingdom of the Devil and of all wicked men; the Heavenly City was the communion of the redeemed in this world and in the next. Throughout all earthly life the two societies are mingled, only to be separated at the last judgment.

At the same time Augustine did think of the kingdom of evil as at least represented by the pagan empires, though not exactly identified with them. He also thought of the church as representing the City of God, even though the latter cannot be identified with the ecclesiastical organization. One of the most influential phases of his thought was the reality and force which he attached to the conception of the church as an organized institution. His scheme of human salvation and the realization of the heavenly life depended absolutely upon the reality of the church as a social union of all true believers, through which the Grace of God can work in human history.[1] For this reason he regarded the appearance of the Christian church as the turning-point of history; it marked a new era in the struggle between the powers of good and the powers of evil. Henceforth human salvation is bound up with the

[1] It must be admitted that there is another side to Augustine's thought. His character was always divided between the interests of an ecclesiastical statesman and those of a Christian mystic. In the latter character he might think of Grace as the relation of an individual soul to God, and writers with a Protestant leaning are prone to interpret him so. For historical purposes, however, and especially in the light of his influence in the Middle Ages, the statement in the text is correct.

interests of the church and these interests are consequently paramount over all other interests whatsoever.

The history of the church, therefore, was for Augustine quite literally "the march of God in the world," to use an expression which Hegel applied rather lamely to the state. The human race is indeed a single family, but its final destiny is reached not on earth but in Heaven. And human life is the theatre of a cosmic struggle between the goodness of God and the evil of rebellious spirits. All human history is the majestic unfolding of the plan of divine salvation, in which the appearance of the church marks the decisive moment. Henceforth the unity of the race means the unity of the Christian faith under the leadership of the church. It would be easy to infer from this that the state must logically become merely the 'secular arm' of the church, but the inference is not necessary, and the circumstances were such that Augustine could not possibly have drawn it. His theory of the relation between secular and ecclesiastical rulers was no more precise than that of other writers of his time and consequently, in the later controversies on the subject, his authority could be invoked by either side. But what he put beyond question for many centuries was the conception that, under the new dispensation, the state must be a Christian state, serving a community which is one by virtue of a common Christian faith, ministering to a life in which spiritual interests admittedly stand above all other interests and contributing to human salvation by preserving the purity of the faith. As James Bryce said, the theory of the Holy Roman Empire was built upon Augustine's City of God. But the conception by no means disappeared with the decadence of the empire. No idea was harder for a seventeenth-century thinker to grasp than the notion that the state might stand entirely aside from all questions of religious belief. Even in the nineteenth century Gladstone could still argue that the state had a conscience that enabled it to distinguish between religious truth and falsity.

The necessity that a true commonwealth must be Christian is put by Augustine in the strongest possible way. He took exception to the views of Cicero and other pre-Christian writers, that it is the business of a true commonwealth to realize justice, precisely on the ground that no pagan empire could possibly do this. It is a contradiction in terms to say that a state can render to every one his own, so long as its very constitution withholds from God the worship which is His due.[1] Augustine's philosophy of history required him to admit that the pre-Christian empires had been in some sense states, but he was clear that they could not be so in the full sense of the word which was applicable

[1] The meaning of Augustine in questioning Cicero's definition of the state has been the subject of controversy. C. H. McIlwain (*The Growth of Political Thought in the West* (1932), pp. 154 ff.) has taken exception, I believe rightly, to the interpretation given by A. J. Carlyle and J. N. Figgis.

after the Christian dispensation. A just state must be one in which a belief in the true religion is taught, and perhaps also, though Augustine does not directly say so, one in which it is maintained by law and authority. No state can be just, since the advent of Christianity, unless it is also Christian, and a government considered apart from its relation to the church would be devoid of justice. Thus the Christian character of the state was embedded in the universally admitted principle that its purpose is to realize justice and right. In some fashion or other the state is bound to be also a church, since the ultimate form of social organization was religious, though what form the union should take might still be a subject of controversy.

The account so far given of the political ideas of St Ambrose and St Augustine stresses the autonomy of the church in spiritual matters and the conception of government as shared between two orders, the regal and the clerical. This position implied not only the independence of the church but equally that of secular government, so long as the latter acts within its own proper jurisdiction. The duty of civic obedience, of subjection to the powers that be, which St Paul had expressed so vigorously in the thirteenth chapter of Romans, was in no way superseded by the growing power of the church. It is an interesting fact, which illustrates the absence of any intention on the part of churchmen in this age to encroach upon the prerogatives of civil government, that the strongest claims made by any of the Fathers for the sanctity of secular rulers occur in the writings of the great and powerful pope who has been called the father of the medieval papacy. The astonishing success with which St Gregory secured the defence of Italy against the Lombards, and also his influence in behalf of justice and good government throughout western Europe and North Africa, greatly enhanced the prestige of the Roman See, while the feebleness of the secular power practically forced him to assume the duties of a political ruler. Yet Gregory is the only one of the Fathers who speaks of the sanctity of political rule in language that suggests a duty of passive obedience.

It seems to be Gregory's view that a wicked ruler is entitled not only to obedience—which would probably have been conceded by any Christian writer—but even to silent and passive obedience, an opinion not stated with equal force by any other Father of the church. Thus in his *Pastoral Rule*, which discusses the kind of admonition that bishops should give to their flocks, he asserted most emphatically not only that subjects must obey but also that they must not judge or criticize the lives of their rulers.

> For indeed the acts of rulers are not to be smitten with the sword of the mouth, even though they are rightly judged to be blameworthy. But if ever, even in the least, the tongue slips into censure of them, the heart must needs be bowed down by the affliction of penitence, to the end that it may

> return to itself, and, when it has offended against the power set over it, may dread the judgment of him by whom the power was set over it.[1]

This conception of the sanctity of government was not unnatural in an age when anarchy had become a greater danger than the control of the church by the emperors. In spite of the fact that Gregory exercised an authority, both secular and ecclesiastical, that was virtually regal, there is a marked difference in tone between his letters to the emperors and the bold reproofs and protests that came from the pen of St Ambrose.[2] Gregory protests indeed against acts that he considers uncanonical, but he does not refuse to obey. His position seems to be that the emperor has power even to do what is unlawful, provided, of course, that he is willing to risk damnation. Not only is the ruler's power of God, but there is none higher than the emperor except God. The ruler's acts are ultimately between God and his conscience.

The characteristic position developed by Christian thinkers in the age of the Fathers implied a dual organization and control of human society in the interest of the two great classes of values which needed to be conserved. Spiritual interests and eternal salvation are in the keeping of the church and form the special province of the teaching conducted by the clergy; temporal or secular interests and the maintenance of peace, order, and justice are in the keeping of civil government and form the ends to be reached by the labours of magistrates. Between the two orders, that of the clergy and that of the civil officials, a spirit of mutual helpfulness ought to prevail. This doctrine of mutual helpfulness left almost no line that might not rightfully be crossed in an emergency which threatened either anarchy in temporals or corruption in spirituals. But despite this vagueness of definition, it was felt that such emergencies did not destroy the principle that the two jurisdictions ought to remain inviolate, each respecting the rights which God had ordained for the other.

This conception is often spoken of as the doctrine of the two swords, or two authorities, which received authoritative statement at the close of the fifth century by Pope Gelasius I. It became the accepted tradition of the early Middle Ages and formed the point of departure for both sides when the rivalry between the pope and the emperor made the relation of spirituals and temporals a matter of controversy. Probably the conception of a society under dual control, presided over by twin hierarchies having distinguishable jurisdictions, remained even in the age of controversy the ideal of most men of moderate views, who were apt to dislike the extreme claims of either of the contesting

[1] Quoted by Carlyle, *op. cit.*, Vol. I, p. 152, n. 2.
[2] See letters quoted by Carlyle, *op. cit.*, Vol. I, pp. 153 ff.

parties. Since Gelasius was writing to an emperor in Constantinople, and always with the object of defending what had now become orthodox doctrine in the west against the heresies that continued, especially in the east, to echo and re-echo from the great trinitarian dispute of the preceding century, he naturally followed the line already laid down by St Ambrose. In doctrinal matters the emperor must subordinate his will to the clergy and must learn rather than presume to teach. It follows that the church, through its own rulers and officials, must have jurisdiction over all ecclesiastics, for obviously in no other way can it be an independent and self-governing institution.

> The Omnipotent God has willed that the teachers and priests of the Christian religion shall be governed not by the civil law or by secular authorities, but by bishops and priests.[1]

In accord with this principle Gelasius insists that, at least where spiritual matters are involved, ecclesiastics must be tried for their offences in ecclesiastical courts and not by the secular authorities.

The philosophical principle behind this practical deduction was the theory, quite in accord with the teaching of St Augustine, that the distinction between spirituals and temporals is an essential part of the Christian faith and consequently a rule for every government following the Christian dispensation. The combination of spiritual and secular authority in the same hands is typically a pagan institution, lawful perhaps before the coming of Christ, but now quite definitely a wile of the Devil. Because of human weakness and for the curbing of natural arrogance and pride, Christ decreed the separation of the two powers; accordingly Christ was the last who could lawfully wield both royal and sacerdotal power. Under the Christian dispensation it is unlawful for the same man to be at once king and priest. It is true that each power has need of the other:

> Christian emperors need bishops for the sake of eternal life, and bishops make use of imperial regulations to order the course of temporal affairs.[2]

But the responsibility of the priest is heavier than that of the secular ruler, for he is answerable on the Day of Judgment for the souls of all Christians, not excepting those of rulers themselves. In no case is it right for either power to exercise the authority which is proper to the other.

The conception of a universal Christian society which was transmitted from the Fathers of the church to the Middle Ages, therefore, differed fundamentally from the ancient idea of a world-wide community and also from the ideas of church and state that came to prevail in modern times. It differed from the latter because the church, as the Fathers understood it, was not a distinct group of persons joined

[1] Quoted by Carlyle, *op. cit.*, Vol. I, p. 187, n. 2.
[2] Gelasius, *Tractatus*, IV, 11. Quoted by Carlyle, *op. cit.*, Vol. I, pp. 190 f., n. 1.

together by a voluntary acceptance of Christian doctrine. In their conception the church was as universal as the empire, for both included all men. Mankind formed a single society under two governments, each with its own law, its own organs of legislation and administration, and its own proper right. This conception differed, however, from any that prevailed in pre-Christian antiquity, because it divided men's loyalty and obedience between two ideals and two rulerships. By giving to the universal community a religious interpretation as participation in the divine plan of human salvation, Christianity added to the requirement of justice in the earthly state the obligation to maintain a purity of worship which would make this life the gateway to life in another world. Upon the idea of earthly right it superimposed the idea of Christian duty, and beside and above citizenship in the state it placed membership in a heavenly fellowship. Thus it placed the Christian under a twofold law and a twofold government. This double aspect of Christian society produced a unique problem which in the end contributed perhaps more than any other to the specific properties of European political thought. Far beyond the period in which the relation of the two authorities was a chief controversial issue, the belief in spiritual autonomy and the right of spiritual freedom left a residuum without which modern ideas of individual privacy and liberty would be scarcely intelligible.

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CHAPTER XI

THE FOLK AND ITS LAW

THE period of the church Fathers, extending down to the sixth or seventh century, still belongs to antiquity. Despite the vast changes—social, economic, and political—which occurred in the first six Christian centuries, Seneca and St Gregory were still both Romans. Both men lived within the circle of Roman political ideas; for both the Empire was the only significant political entity; both agreed substantially in their main conceptions of the state and of law. Even the rise of the church into an autonomous social institution, and even the necessity which in Gregory's time forced it to step into the place left vacant by the fall of the Empire, had not as yet been sufficient to break the continuity of the ancient world. Between the sixth and the ninth centuries, however, the political fortunes of western Europe passed once for all into the hands of the Germanic invaders whose impact upon the old imperial structure had at last broken it. Charlemagne might adopt the titles of Emperor and Augustus, writers both lay and clerical might picture his kingdom as a reincarnation of Rome, yet by no stretch of the imagination were Charlemagne and the men who conducted his government Romans. The Roman Empire, withdrawn into the East, had left Rome itself, to say nothing of the western provinces, without even the shadow of the imperial power; the Roman Church, divided from the Church of Constantinople on the orthodoxy of image-worship, had become the church of western Europe; and because of the heretical Lombard power, the Bishop of Rome had cemented an alliance with the Frankish Kingdom which made the pope himself effectively the temporal ruler of central Italy. The barbarian conquest itself, with its attendant social and economic changes, had made government on a large scale impossible. Both politically and intellectually western Europe was beginning to revolve around a centre of its own, instead of being merely the hinterland of a world whose centre was the Mediterranean basin.

From the sixth to the ninth century the state of Europe was not such as to permit much philosophical or theoretical activity, nor were the Germanic barbarians as yet capable of grasping—not to say extending—the remains of ancient learning at their disposal. The comparative orderliness of the age of Charlemagne, with its brief revival of scholarship, was an episode. New barbarian invasions in the tenth and

eleventh centuries—the Norsemen in the north and the Huns in the east—again threatened to reduce Europe to a state of anarchy. Not until the latter part of the eleventh century, when the great controversy between the spiritual and temporal authorities began, was there again an active canvassing of political ideas. Yet with this great and violent break in social and political history which divides the ancient from the medieval period, there was no conscious or intentional departure from the political conceptions which bore the sanction of Christian antiquity. Reverence for Scripture, for the authority of the Fathers and the tradition of the church, even for ancient pagan writers like Cicero, remained unbounded. The validity of natural law and its binding authority over rulers and subjects, the obligation of kings to govern justly and in accordance with law, the sanctity of constituted authority both in church and state, and the unity of Christendom under the parallel powers of *imperium* and *sacerdotium* were matters of complete and universal agreement.

Nevertheless, allowance must be made for the appearance in the early Middle Ages of ideas about law and government which had not existed in antiquity and which yet, by their gradual incorporation into common modes of thought, had an important influence upon the political philosophy of western Europe. Some of these ideas may have been in some peculiar sense Germanic; at least they belonged to the Germanic peoples. But it is not necessary to adopt the myth that Germanic thought had an aura of its own. The ideas of the Germanic peoples about law were broadly similar to those of other barbarous peoples with a tribal organization and a semi-nomadic habit of life. They developed in contact with the vestiges of Roman law and under the stress of political and economic circumstances which were much alike in all parts of western Europe. It is the purpose of this chapter to describe briefly some of these new conceptions that made their way into political thought in the early Middle Ages and which, like the ancient tradition that came through the Fathers of the church, became matters of common acceptance.

THE OMNIPRESENT LAW

The most significant of the new ideas about law may be summed up by saying that the Germanic peoples conceived the law as belonging to the folk, or the people, or the tribe, almost as if it were an attribute of the group or a common possession by which the group was held together. Each member lived within the people's 'peace,' and the law provided especially the regulations necessary to prevent that peace from being broken. Outlawry, the primitive punishment for crime, put a man outside the people's peace; and injury to a particular person or family, the primitive equivalent of tort, put him outside the peace

of the injured party, and the law provided the composition by which feud could be prevented and the peace restored. Germanic law in this early state was never written but consisted of customs perpetuated by word of mouth and constituting, as it were, the wisdom by which the peaceful life of the tribe was carried on. The law was, of course, "in every case the law of the tribe or folk which it rules, and attaches to every member of the tribe by virtue of his membership."[1] This was a natural consequence of the fact that the people to whom the law belonged were as yet but lightly attached to the soil, a nomadic habit of life being not far in the past and agriculture being as yet of comparatively minor importance.

Thus it happened that the barbarian peoples who made their way into the Roman Empire brought their law with them and it remained the personal possession of each member, even though he might settle down among persons governed by Roman law. This is the state of affairs which existed when the Germanic laws were first committed to writing, in Latin and not in the Germanic tongues, between the sixth and eighth centuries. Such 'barbarian codes' were formulated in the kingdoms of the Ostrogoths, the Lombards, the Burgundians, the Visigoths, and for various branches of the Franks, and contained not only an attempt to reduce Germanic custom to writing for their Germanic inhabitants, but frequently a formulation of Roman law for the Roman inhabitants. Between Romans some remnant of Roman law was still administered; between persons of Germanic origin the appropriate form of Germanic law was still binding. In the course of time, since in many localities there were frequent conflicts of law, elaborate rules were developed for dealing with cases in which the parties were of different laws, much as modern law includes rules for dealing with transactions that in one way or another involve the law of several states.[2] The idea that law is an incident to membership in a folk or a tribe persisted long after the folk had ceased to be a unified group distinct from other groups and occupying a place of its own.

As the amalgamation of Roman and Germanic peoples progressed, however, this conception that law is a personal attribute gradually gave way to the conception that law follows the locality or the territory. The advantages of the latter conception for orderly and unified administration are obvious, and the speed with which the idea gained ground probably depended upon the success of the kings in gathering administration into their own hands. Relatively early, about the middle of the seventh century, there was a code of common law for both Roman and Gothic subjects of the Visigothic kingdom in Spain. In the Frankish empire, where the diversity of laws was great, the process was

[1] Munroe Smith, *The Development of European Law* (1928), p. 67.
[2] For a brief historical account of the barbarian codes, see Munroe Smith, *op. cit.*, Book II.

slower and very irregular. The king's law was always territorial (though not always uniform for the whole territory) and no doubt, on the whole, it was better law than the older (personal) folk-law, and also better administered. By the beginning of the ninth century the punishment of crimes by the law of the locality where they were committed had begun, in some parts of the Frankish empire, to displace the personal law. In some divisions of the law in which the church was especially interested, such for instance as that of marriage, the influence of the church also was against the diversity of laws. The processes by which the change took place are often impossible to trace, but in the course of time law was transformed, as it always tends to be in a settled community, into local custom, the principle of its applicability being territorial rather than tribal. Such local custom, however, was not identical with the king's law or with common law for a whole kingdom. The diversity of law, and especially of private law, persisted more or less everywhere, depending again upon the king's success in extending the jurisdiction of his own courts. In France, for example, private law remained largely local until after the Revolution, though the administrative law had long been unified; in England, on the other hand, largely by reason of the greater strength of the Norman kings, the law had become substantially common by the end of the twelfth century.

Throughout the changes which transformed law from tribal practice to personal attribute, and from the latter to local custom, the conception in some way persisted that the law belongs essentially to a people or a folk. This idea did not connote, however, that law was the creature of a people, dependent upon their will and capable of being made or changed by their volition. The order of ideas was rather reversed: the folk as a communal body was perhaps more truly conceived to be made by their law, much as a living body might be identified with its principle of organization. The law, indeed, was not supposed to be made by anyone, either an individual or a people. It was imagined to be as permanent and as unchangeable as anything in nature, a "brooding omnipresence in the sky," as Justice Holmes said in one of his celebrated opinions. Only the law as it was popularly conceived in the Middle Ages was by no means in the sky alone. It was rather like a circumambient atmosphere which extended from the sky to the earth and penetrated every nook and cranny of human relationship. It is true, as was said above, that every one in the Middle Ages, whether a professional lawyer or a layman, believed in the reality of natural law, but this belief by no means exhausted the extraordinary reverence in which law was held. Literally all law was felt to be eternally valid and in some degree sacred, as the providence of God was conceived to be a universally present force which touched men's lives even in their most trifling details. The custom which was rooted in the folkways was in no sense set off from natural law, but rather was

felt to be a twig of the great tree of the law, which grew from earth to heaven and in whose shade all human life was lived. It was true both of the civilians and the canonists, when there came to be again a legal profession, that law was identified with right and equity and that human and divine law were conceived to be all of a piece.[1] But the theory was only a learned restatement of what every one unquestioningly took for granted.

FINDING AND DECLARING LAW

This ramification of law through all the relations of life, as if it were a permanent structure within which all human affairs go on, is a conception not easy to recapture in an age when legislation takes place daily and by processes which the most optimistic would hesitate to identify with the providence of God. Nevertheless, it was not unnatural in a society where legislation in the sense of enactment could hardly be said to take place at all. A society simple in its social and economic structure changes comparatively slowly, and it appears to its members to change more slowly than it often does. Immemorial custom is conceived to cover all questions that need to be adjudicated, and over considerable periods of time this may be almost true. When it ceases to be true, the natural explanation is not that new law needs to be made but rather that it is necessary to find out what the old law really means. Reciprocally, the fact that any state of affairs has existed for a considerable time creates the presumption that it is lawful and right. This, as Professor Munroe Smith[2] has pointed out, was the underlying assumption of the whole procedure of inquest which was so largely used in Frankish and Norman law, and which in time produced the English jury. From this point of view it is appropriate to say that law is 'found' rather than made, while it would be definitely inappropriate to say that any body of men exists whose business it is to make law. When by inquest or otherwise it has been found out what the law is on an important point, the king or some other appropriate authority may set forth the discovery in a 'statute' or an 'assize,' in order that it may be known and generally followed, but this would not imply, for a person whose mind moved in this circle of ideas, that the statute enacted something which had not previously been valid. The powerful hold of custom upon legal ideas in the Middle Ages is shown by the fact that, even after the revival of the study of the Roman law, some lawyers believed that custom "founds, abrogates, and interprets" the written law, though others, of course, held the contrary.[3] The

[1] Many citations will be found in Carlyle, *op. cit.*, Vol. II (1909), Part I, ch. ii–vi; Part II, ch. ii–vi.

[2] *Op. cit.*, p. 143.

[3] The views of the civilians in the eleventh and twelfth centuries on this point are analysed by Carlyle, *op. cit.*, Vol. II, Part I, ch. vi; those of the canonists in the twelfth and thirteenth centuries in Part II, ch. viii.

decrees or capitularies of the Frankish kings, therefore, were not legislation in any modern sense of the word. They might instruct the king's commissioners how to deal with certain classes of cases, either for the whole kingdom or for some part of it, but they did not, in any contemporary understanding of the matter, enact the law. They told what, in the wisdom of the king's council and in the light of prevailing practice, the law had been found to be.

Such a declaration of the law was naturally made in the name of the whole people, or at least in the name of some one who was felt to be competent to speak for the whole people. Since the law belonged to the folk and had existed time out of mind, the folk were entitled to be consulted when an important statement of its provisions was to be made. Thus the capitularies of the Merovingian kings as early as the sixth century contain, apparently as a matter of course, the assertion that the decree has been issued after consultation with "our chief men," or with the "bishops and nobles," or that the decision has been made "by our whole people."[1] In the ninth century similar assertions are continually found, so frequently in fact that law seems regularly to have been issued in the name of the whole people definitely with the sense that their consent is an important factor in its validity. The term 'consent,' however, probably referred less to an act of will than to an acknowledgment that the law is really as stated. Thus, to cite a single illustration, Charlemagne used the following enacting formula: "Charles the Emperor . . . together with the bishops, abbots, counts, dukes, and all the faithful subjects of the Christian Church, and with their consent and counsel, has decreed the following . . . in order that each loyal subject, who has himself confirmed these decrees with his own hand, may do justice and in order that all his loyal subjects may desire to uphold the law."[2] In a well-known phrase an edict of 864 states the principle in general terms: "Because the law is made with the consent of the people and by the declaration [*constitutione*] of the king. . . ." The following is a random illustration from English history in the twelfth century: "This is the assize of lord Henry the King, the son of Matilda, in England, concerning the forest and his venison, by the advice and assent of the archbishops, bishops and barons, earls and nobles of England, at Woodstock."[3]

A practically unlimited number of illustrations might be given, drawn from either the earlier or the later Middle Ages, of this conviction that the law belongs to the people whom it governs and is evidenced by

[1] Many illustrations of decrees containing these or similar expressions will be found in *M.G.H.*, Leg. Sect. II, Vol. I, pp. 8 ff.

[2] *M.G.H.*, Leg. Sect. II, Vol. I, No. 77. Many illustrations are given by Carlyle, Vol. I, ch. xix.

[3] Henry II's Assize of Woodstock, 1184, Stubbs, *Select Charters*, ninth ed. (1913), p. 188; translation in Adams and Stephens, *Select Documents of English Constitutional History* (1901), No. 18.

their observance of it or, in case of doubt, by the statement of some body properly constituted to determine what the law is. Two illustrations, however, will suffice. One is the story which John of Ibelin, writing in the thirteenth century, tells of the making of the Assizes of Jerusalem some two centuries before. He says that Duke Godfrey caused "wise men to inquire from the people of different countries who were there [in Jerusalem] the customs of their countries." Then, with the advice and consent of the Patriarch and of the princes and barons, "he selected the practices that seemed good to him and made assizes and customs to be observed and followed in the Kingdom of Jerusalem."[1] As history this is no doubt worthless, but it shows admirably what the author believed to be the process of formulating a body of law. After the prevailing practice has been ascertained by consulting those who know, and after the men learned in the law have found the practices that ought to be binding, the result is reduced to writing and promulgated by the king, in order that there may be no further doubt about it. There was no thought in John's mind of Godfrey's having made the law or indeed of anyone having made it. And in order to ascertain the law, those who have it must, of course, be consulted.

The second illustration comes from England and has a certain interest because it belongs to a date when the medieval constitution was upon the eve of taking shape. After the Battle of Lewes (1264), which led directly to the calling of the Model Parliament, a follower of Simon de Montfort celebrated the victory in a curious poem wherein the rebels' view of law was stated:

> Therefore let the community of the kingdom advise, and let it be known what the generality thinks, to whom their own laws are best known. Nor are all those of the country so ignorant that they do not know better than strangers the customs of their own kingdom which have been handed down to them by their ancestors.[2]

The custom of the country is assumed to be binding, and the purpose of the parliament was to make certain what this custom really was and to give it effect.

The belief that law belongs to the people and is applied or modified with their approval and consent was, therefore, universally accepted. The belief was, however, very vague, so far as concerned the procedure of government. It implied no definite apparatus of representation and was, in fact, centuries old before medieval constitutionalism took form in such bodies as the parliaments that appeared in the twelfth and thirteenth centuries. There was, and indeed is, nothing essentially incongruous in the idea that a locality, a borough, or even a whole people, might make decisions, present their grievances, be called to account for their negligence, and give their approval to policies for

[1] Carlyle, *op. cit.*, Vol. III (1915), p. 43, n. 2.
[2] Translated in S. R. Gardiner, *Students' History of England*, Vol. I (1899), p. 202.

which they had to provide money or soldiers. It is a modern convention that all this is done by elected representatives, but every one knows that the convention often is not true. Effectively a community expresses its 'mind' through a few persons who, for one reason or another, really count in crystallizing the vague thing called public opinion. So long as a community is so organized that these few persons are pretty clearly designated, and so long as the issues are relatively few and not subject to too rapid change, representation may be effective enough without much apparatus. Historically the apparatus was later than the idea that the people was a corporate body which expressed its corporate mind through its magistrates and natural leaders. Just who these leaders were or how they were designated leaders, or, indeed, who exactly 'the people' severally were whom they represented, only became matters of primary importance when the making of devices to implement representation was undertaken. The older idea, in the form of a legal fiction, may perhaps still be seen in Blackstone's theory that English laws are not promulgated because every Englishman is conceived to be present in Parliament.[1]

THE KING UNDER THE LAW

The belief that the law belongs to the folk, and that their recognition of it has an important part in determining what it is, implies that the king is only one factor in making or declaring it. For this reason it was commonly believed that the king himself is obliged to obey the law quite as his subjects are. It was, of course, obvious that kings, like all other mortals, are subject to the laws of God and of nature, but this was not all that was meant nor the really important point. As has already been said, the discrimination of the several kinds of law, divine and human, did not mean that they were radically distinct. The law, conceived as a pervasive medium, penetrated and controlled all kinds of human relationship, and that of subject and ruler among others. Accordingly the king was felt to be obliged not only to rule justly rather than tyrannously, but also to administer the law of the kingdom as it actually was and as it could be ascertained to be by consulting immemorial practice. The king could not lawfully set aside rights which custom guaranteed to his subjects or which his predecessors had declared to be the law of the land. Thus a ninth-century writer, Archbishop Hincmar of Rheims, says:

> Kings and ministers of state have their laws by which they ought to govern those who live in every province; they have the capitularies of Christian Kings and of their ancestors, which they have lawfully promulgated with the general consent of their loyal subjects.[2]

[1] *Commentaries*, I, 185.

[2] Quoted by Carlyle, *op. cit.*, Vol. I, p. 234, n. 1.

And the capitularies abound in promises made by kings to give to their 'loyal subjects' such law "as your ancestors had in the time of our ancestors,"[1] and not to oppress any of them "contrary to law and justice." The latter phrase was certainly not intended to mean justice in the abstract but justice as defined by the expectations created in settled practice. Such promises were often given by a king at his coronation and embodied in his oath. Not infrequently they were extorted by the forcible measures of his 'loyal subjects' when, without having the requisite power, the king showed himself too disregardful of their established rights and privileges. That such measures were justifiable upon suitable provocation was a settled belief, in spite of the strong statements of Gregory about passive obedience mentioned in the preceding chapter. For none in principle doubted that a man was entitled, by the law both of God and man, to the treatment and the status which he and his ancestors had long enjoyed or which had been guaranteed to him by the act of some previous ruler. The law created a tie binding upon the whole people and upon every man in the station to which he had been called; reciprocally it guaranteed to every man the privileges and rights and immunities proper to that station. The king was no exception to this general rule. Since he ruled by the law he was subject to it.

But while the king was thought to be subject to the law, it would not be accurate to say that he was subject in precisely the same way as other men. The point of the conception was not equality before the law. It was rather that every man was entitled to enjoy the law according to his rank and order. The firmly fixed idea of status made almost any amount of inequality justifiable. No one denied that the king's position was in many important respects unique. By virtue of his office he had a large responsibility for the well-being of his people, a considerable discretion in adopting measures to foster it, and indefeasible rights within the sphere of duties imposed by his position.[2] In accordance with what has already been said about the vagueness of constitutional conceptions, it is not to be expected that the modes in which the king could exercise unique powers within the law would be accurately defined. Even with modern constitutional devices the powers of government can be almost indefinitely stretched to meet an emergency by methods which the courts will hold to be lawful. And in the Middle Ages there was almost no means of defining accurately any constitutional authority. Thus it could be held at once that the king was bound by law and yet that no writ would run against him. No one doubted that there were limits somewhere which he could not exceed without violating both law and morals; on the other hand no

[1] In a declaration of the Frankish king Lewis at Coblenz in 860 (*M.G.H.*, Leg. Sect. II, Vol. II, No. 242, 5).

[2] C. H. McIlwain, *op. cit.*, ch. vii.

one doubted that he ought to have powers not equalled by those of any subject. The king was *singulis maior universis minor.*

Consequently there was a fundamental difference between the conception of the king implied in the capitularies and that embodied in the Roman law. It is true that the constitutional theory of the Roman lawyers regarded the emperor's legal authority as derived from the Roman people. In the famous dictum of Ulpian this was given as the ground for the emperor's legislative power. But the lawyer's theory regarded the cession of power as made once for all; after the emperor has been invested with his authority, *quod principi placuit legis habet vigorem.* The medieval theory, on the other hand, assumes a continuous co-operation between the king and his subjects, both being, so to speak, organs of the realm to which the law belongs. The difference is in part explainable by the enormous differences between the societies in which the two conceptions of law grew up. The tradition of the Roman law was that of a highly centralized administration in which conscious legislation by imperial edicts, senatorial decrees, and the opinions of expert jurisconsults was a matter of common experience, and in which also the law itself had been brought to a high level of scientific systematization. A medieval kingdom was not centralized either in theory or in practice, and nothing perhaps is more recalcitrant to logical systematization than local custom. The realm or the folk was vaguely felt as a unit organized under its law and including the king along with other officials and persons who were its appropriate spokesmen and agents, but there was as yet no precise definition of the powers and duties of these agencies and no consciousness that they needed to be strictly co-ordinated in such a way that authority flowed from a single source. The conception of delegated power was continually crossed by the conception that authority resides also in position or status and is, therefore, inherent in persons who, in other respects, might be regarded as agents of the king. Even in the seventeenth century Sir Edward Coke could still think of the crown, the parliament, and the courts of common law as enjoying inherent powers under the law of the realm. The king was not the 'head' of the state, as he became in the era of absolute monarchy at the opening of the modern period. Still less were men aware of the state as 'an artificial person,' such as analytic jurists have consciously created in order to give unity of operation to the functions of government.[1]

THE CHOICE OF A KING

The relation of king and people under the law of the folk, and the political conceptions which this relation engendered, are further clari-

[1] See the definition of the state in John Chipman Gray's *Nature and Sources of the Law*, second edition (1921), p. 65.

fied by considering how the king was believed to be invested with his authority and what constituted the lawful claim to his office. Medieval ideas on the subject throw light upon the prevailing notions both of the people's consent and of the king's subjection to law, and also illustrate excellently the lack of precise legal ideas about the title to authority. According to the political ideas of the present day, a ruler may be elected or he may inherit his office but he can hardly do both at once. The striking fact about many medieval kings is that, according to the prevailing ideas of their time, they not only inherited and were elected but ruled also 'by the grace of God,' the three titles being not alternative but expressing three facts about the same state of affairs.

This vague state of mind can best be made clear by taking an actual case. When Louis the Pious in the year 817 wished to provide for the succession of his sons, he set forth his decision and the grounds for it as follows.[1] He first recited how the "holy assembly and totality of our people" had met according to custom, and how "suddenly by divine inspiration" his loyal subjects advised him that the succession of the kingdom should be settled while God granted peace. After three days of fasting and prayer, it was brought about,

> by the will of Almighty God, as we believe, that our own wishes and those of our whole people agreed in the election of our beloved Lothair, our eldest son. Therefore it seemed good to us and to all our people that he, being thus indicated by divine direction, after being solemnly crowned with the imperial diadem, should by the common desire be made our consort and successor in the empire, if God shall so will.

Certain provisions were then made for the younger sons and the decisions reached were "written down and confirmed with our hands, so that, with the help of God, as they were made by the common will of all, they might be kept inviolate through the common devotion of all."

In this choice of a ruler it will be noted that three grounds were assigned for the validity of the choice. First, Lothair was in fact the emperor's eldest son, though this was not emphasized. Second, he was elected and this election was said to be an act of the whole people done "by the common will of all." And third, the choice was believed to be made under the direct inspiration of God. Lothair's claim to the crown evidently rested, in the mind of Louis, upon all three facts in combination. The idea doubtless was that, subject to the will of God, the king's son was a normal candidate to succeed him, but the actual choice required some sort of ratification or acceptance of the candidate in the name of the people.

These factors were exactly similar to those supposed to conspire in the issuing of an assize: the validity of the law was ultimately divine, but it was enunciated by the king and it had behind it the consent of

[1] *M.G.H.*, Leg. Sect. II, Vol. I, No. 136. Translated in E. F. Henderson, *Select Historical Documents of the Middle Ages* (1892), p. 201.

the people expressed through the magnates of the realm. It is, of course, true that the machinery of such an election was as vague as that for enunciating law; no one could possibly have told what exactly were the qualifications of electors. The conjunction of the three factors in every one's mind, moreover, helps to explain the idea that the king, once elected, was still subject to law. Inheritance was not the king's indefeasible right, while the suffrage of the magnates who chose him was cast by virtue of the rights inherent in their stations rather than because they were electors in a strict constitutional sense. This view was expressed in a highly characteristic way in a letter written in 879 to Lewis III by Archbishop Hincmar:

> You have not chosen me to be a prelate of the Church, but I and my colleagues, with the other loyal subjects of God and your ancestors, have chosen you to rule the kingdom on the condition that you shall keep the law.[1]

In the earlier Middle Ages, then, three sorts of claim to royal power were combined: the king inherited his throne; he was elected by his people; and he ruled, of course, by the grace of God. Election and hereditary right became more clearly distinguished as constitutional practices became more regular and more clearly defined. The two most characteristic medieval monarchies, the empire and the papacy, though efforts were made more than once to make them perquisites of a family, became definitely elective. In constitution-making the papacy led the way by the establishment in the second half of the eleventh century of an orderly process of election by the clergy, to replace the older informal kind of election which often made a papal election the plaything of the petty Roman nobility or of imperial politics. It was not until 1356 that the Golden Bull of Charles IV crystallized the practice of imperial elections, thus giving to the empire a constitutional document which fixed the number and identity of the electors and established majority rule. In the kingdoms of France and England, on the other hand, the principle of primogeniture prevailed, perhaps on the analogy of the usual rule of feudal succession. There is no doubt that under feudalism hereditary monarchy had the better chance of becoming strong. But even in the kingdoms the feeling that the king was in some sense the choice of the people persisted for a long time. Thus the succession of King John in 1199, which was not, in fact, strictly in accord with primogeniture, was described by the chronicler, Matthew of Paris, in a speech attributed to Archbishop Hubert of Canterbury, as the result of an election.[2] Perhaps the idea of election

[1] Quoted by Carlyle, *op. cit.*, Vol. I, p. 244, n. 2.

[2] Stubbs, *Select Charters*, ninth edition (1913), p. 265; translated in Adams and Stephens, *Select Documents of English Constitutional History* (1901), No. 22. The fact that Hubert probably did not speak as reported is unimportant, so far as showing a popular sentiment is concerned, since Matthew wrote only about fifty years after the event. His account gives a good idea of the vagueness of the idea of election.

never wholly disappeared from popular feeling, even after the legal right of inheritance was settled. Thus in France in the sixteenth century, when it became important to fix responsibility in the king, men could argue that monarchy is always in principle elective.

Whether the king succeeded to his office by election or by heredity, he still ruled by the grace of God. That secular rule was of divine origin, that the king was the vicar of God, and that those who resisted him unlawfully were 'subjects of the Devil and the enemies of God' was doubted by no one. At the same time expressions such as these had no such precise meaning as divine right came to have in the sixteenth century. In particular, they were not thought to imply an obligation on the subject's part to render passive obedience irrespective of the justice or the tyranny of the king's commands. In the absence of strict hereditary succession the conception that the king's authority was divine could not issue in a theory of dynastic legitimacy such as the expression 'divine right' implied between the sixteenth and the eighteenth centuries; and in the absence of a strongly co-ordinated monarchy with the king at its head the duty of passive obedience could not take on the ethical importance which it attained in later political philosophy. Since the king was himself conceived to be bound by the law of the land, the propriety of resistance under some not very strictly defined circumstances, when the fundamental law was believed to have been invaded, was looked upon as both a moral and a legal right. But this was not regarded as violating the Christian duty of subjection to constituted authority, and St Gregory's pronouncements in favour of passive obedience were sure to be quoted against fomenters of disorder.

LORD AND VASSAL

The idea that law belongs to the folk and regulates all the relations of men with one another from the top to the bottom of society carried with it the germs of certain constitutional conceptions, such as the corporate nature of the realm, representation, and the legal authority of the crown. In the early Middle Ages, however, these ideas lacked precise definition and also any definite institutional embodiment in a constitutional apparatus. The latter was developed from the social and economic arrangements and the rather vague mass of ideas known as feudalism. As Vinogradoff has said, feudal institutions dominated the Middle Ages as completely as the city-state dominated antiquity. Unfortunately it is impossible to define feudalism, both because it connotes a great variety of institutions and also because it was very unequally developed in different times and places. For the latter reason dates are notoriously independable. In some places characteristic feudal arrangements, like serfdom, existed as early as the fifth century, but feudalism was most fully developed after the breaking up of the

Frankish Empire, and produced its fullest effects on social and political institutions in the eleventh and twelfth centuries. No general description that can be given will fit the facts, though behind this variety there were certain arrangements and certain ideas that were pretty well exemplified in most parts of western Europe. Some of these had important theoretical implications and for this reason must be examined, though their history in different countries is too complicated even to be mentioned.

The key to feudal arrangements lay in the fact that, in a period of disorder often approaching anarchy, large political and economic units were impossible. Governments tended, therefore, to be restricted to a size, small by modern or Roman standards, which was viable in the circumstances. The essential economic fact was a condition of agriculture which made the village community, with its dependent farmlands, an almost self-sufficing unit. The end of the era began with the rise of the trading cities in the twelfth century, though many of the most important political effects of feudalism appeared after that date. Since land was the only important form of wealth, every class, from king to fighting man, was dependent directly upon the products of the soil. The control of land was in the hands of this small community with its customary regulations, and minor police functions were the duty of the village.[1] The organization of society and of government was fundamentally local. Upon this foundation the typical feudal organization was built. In a state of continual disorder and with the most primitive means of communication, a central government could not perform even such elementary duties as safeguarding life and property. In such a situation the small landowner or the man of small power had but one recourse: he must become the dependant of some one strong enough to aid him. The relation thus formed had two sides; it was at once a personal relation and a property relation. The small man obligated himself to render services to the great man in return for protection, and he surrendered the ownership of his land and became a tenant upon the condition of paying a rent in services or goods. The property and power of the great man were thus augmented, while the small man had behind him a powerful patron whose interest as well as duty it was to protect him. A similar result was reached when the process worked from the top down. A king or an abbot could put his land to use only by granting it to a tenant who would make a return in services or rent.

> The whole system may be regarded as a system by which all the land of the realm was drawn into the service of the realm, or as a system by which those who render service to the community receive, in the form of the yield or produce of land, payment or salary for their services.[2]

[1] For a description of an English manor see W. J. Ashley, *The Economic Organization of England* (1914), Lecture I.

[2] Munroe Smith, *op. cit.*, p. 165.

Feudalism, then, in its legal principles, was a system of land-tenure in which ownership was displaced by something like leasehold. Or as a modern jurist has expressed it:

> Practical ownership consists of a life interest, inalienable in most cases, and of a reversion or remainder which again, when vested, is simply another life interest.[1]

Now this system of vested interests must be conceived to run through the community from top to bottom and to touch all the principal functions of government. Thus, if the land-system were logically worked out, the king would be the sole landowner. His barons would be tenants upon lands granted to them for specified services, and the barons would in turn have tenants under them, until the bottom is reached in the serfs, upon whose labour the whole system rests. Since military service was the typical form of return for a barony, the army of the kingdom would be a feudal army. That is, each tenant would be obligated to produce a specified number of men, armed in specified ways, and each baron would command his own men. The revenues of the kingdom (aside from those coming directly to the king from his own domain) would arise less from general taxation than from dues or reliefs, which the king's tenants were obligated to pay upon fixed occasions. Last and most important of all, the grant to the tenant might carry with it the right to administer justice in his own barony with an immunity from interference by the king's officers. The theory of feudal law is expressed in the saying that 'the man's man is not the lord's man.' For obvious reasons kings were slow to grant such immunities if they could avoid it. Thus the relatively powerful Norman kings of England required the insertion into oaths of fealty of the qualifying clause, "saving the faith that I owe to our lord the King."

Consequently feudalism affected in the most important way the three great instruments of political power, the army, the revenues, and the courts. In all three cases, the king might be able to deal with the great mass of his subjects only at second or third hand. The feudal relation of lord and vassal was fundamentally different from that conceived to hold between sovereign and subject in a modern state. The personal side of the relationship, with its stress upon the loyalty and reverence which a vassal invariably owed to his superior, had elements not unlike those of political subordination, though it often operated to withdraw the loyalty of men in the lower ranks from the king to their more immediate overlords. On the other hand, the property relation was more like a contract in which the two parties retained each his private interest and co-operated because it was mutually advantageous to do so, though the king's ownership of the land might work in the long run

[1] Munroe Smith, *op. cit.*, p. 172.

to increase his power. The greatest prudence needs to be used in drawing conclusions as to the way in which the system actually worked, for it had, in fact, diverse tendencies.

In the first place, the obligation between a lord and his vassals was always mutual. It was not exactly equal, since the vassal owed general duties of loyalty and obedience which the lord did not share. He owed also more specific duties, such as military service, attendance upon the lord's court, and various payments to be made on stated occasions, such as the succession of an heir into the tenancy. It was characteristic of these specific duties that they were limited. The amount and kind of military service, for instance, was fixed, and beyond this the vassal's obligation, strictly speaking, did not go. On the other hand, the lord was obligated to give aid and protection to his vassals and also to abide by the customs or the charter which defined the vassal's rights and immunities. In theory, at least, the vassal could always surrender his tenancy and renounce his subjection—in practice a rather speculative remedy—or he might keep his land and disavow his obligations if the lord denied him the rights to which he was entitled. Consequently the promise of a king to give his subjects the law which their ancestors enjoyed in the time of his ancestors was merely a recognition of an arrangement conceived as existing and as having a right to exist. In this feudal arrangement there was an aspect of mutuality, of voluntary performance, and of implied contract which has almost wholly vanished from modern political relationships. It was somewhat as if a citizen might refuse to pay taxes beyond a certain amount, decline military service beyond a stipulated period, or perhaps refuse both until his liberties were recognized. In this respect the position of the king was weak in theory and often doubly weak in practice, and the feudal monarchy appears by comparison with a modern state to be highly decentralized. On the other hand, however, the feudal system of land-tenure sometimes permitted a king, or more particularly a family, to increase its power by lawful feudal means, such for instance as escheat. The early growth of the power of the Capetian dynasty in France took place largely by the operation of feudal law itself.

In the second place, the relation of lord and vassal differed from that of sovereign and subject because it tended to obscure the distinction between private rights and public duties. Though a feudal holding was typically land, it was not necessarily so. Any object of value might be so held: the right to operate a mill, to collect a toll, or hold an office of government. The whole system of public administration tended to follow the prevailing form of land-tenure, and public office tended to become, like land, a heritable interest. In this way office became vested in perpetuity in a man and his heirs. The vassal's right to his property implied a public service of some specified kind but, on the other hand, the obligation to public service was incidental to the

property right. This led to the result that a public official held his place not as an agent of the king but because he had a prescriptive right to be there. His authority was not delegated but owned; obviously the king's power depended largely upon his ability to limit this tendency. But the tendency goes far to explain the apparently informal character of feudal institutions. The men about the king owe him court-service as part of their feudal duty. So long as their status was sufficiently clear, questions as to whom precisely they represent or who is entitled to be consulted need not arise. They are not so much public servants as men discharging a contractual obligation.

THE FEUDAL COURT

The court of a lord and his vassals was the typical feudal institution.[1] It was essentially a council of the lord and his men for the settlement of disputes arising among them relative to the arrangements on which their feudal relations depend. The striking fact is that both the lord and the vassal had precisely the same remedy in case either believed that his right had been invaded: he could appeal to the decision of the other members of the court. The notion that the king or lord should decide out of his own plenary power and according to his own will was quite foreign at least to the theory of the proceedings. The charters or customary rights of the parties were supposed to be strictly maintained. A decision of Henry II of England in a trial before his court (c. 1154) will illustrate the point. The trial concerned the title to lands claimed alike by the Abbot of St Martin and Gilbert de Balliol. The Abbot offered a charter to prove his claim, and Gilbert, whose claim was weak, introduced a quibble about its lacking a seal. "By the eyes of God," said King Henry, "if you can prove this charter false, it will be worth a thousand pounds to me in England." But Gilbert had no evidence. Whereupon the king decided the case:

> If the monks by means of a similar charter and confirmation were able to show that they had a right of this sort to the present place, to wit, Clarendon, which I chiefly love, there would be no just reply for me to make to save me from entirely surrendering it to them.[2]

In theory, then, the feudal court guaranteed to every vassal a trial by his peers, in accordance with the law of the land and the specific agreements or charters at issue. The court's decision was enforceable

[1] For an example of a feudal court see the account of the Haute Cour of the Latin Kingdom of Jerusalem, John L. LaMonte, *Feudal Monarchy in the Latin Kingdom of Jerusalem, 1100–1291* (1932), ch. iv. The Latin Kingdom is perhaps an especially good illustration of feudal *ideas*, because the accounts of it, written some two centuries after its founding, embody prevailing theories, legal and other, of what a government ought to be, and, also, because transplanted institutions usually embody theories better than those of native growth.

[2] Adams and Stephens, *op. cit.*, No. 12.

by the united power of its members, and in the extreme case enforcement was conceived to run even against the king. The sixty-first section of Magna Carta, empowering a committee of twenty-five of King John's barons to enforce the charter, was an effort thus to legalize constraint applied to the king.

> Those twenty-five barons, with the whole land in common, shall distrain and oppress us in every way in their power . . . until amends shall have been made according to their judgment.

Similarly the right of vassals to coerce the lord in defence of their just liberties as determined by the court was secured by the Assizes of Jerusalem. Under a typical feudal organization the king was *primus inter pares*, and the court itself, or the king and the court together, exercised a joint rule, which included all that, in a modern state, would be distinguished as legislative, executive, and judicial functions of government. At the same time the essentially contractual relation between the members of the court, including the king, tended to prevent the concentration of authority anywhere. The probability that such a system would issue, pretty frequently, in something like legalized rebellion is too obvious to need comment.

FEUDALISM AND THE COMMONWEALTH

While a state of affairs such as has been described often existed, it probably did not represent, either in theory or in practice, quite the whole truth about a medieval monarchy. Aside from the intolerable inconvenience of legalized rebellion, a definitely contractual relation between the king and his vassals by no means exhausted the medieval theory of kingship. Both theory and practice united with this conception ideas of a quite different sort. The reverence and obedience which a vassal owed to his lord were elements of feudal homage itself that conceded to the king a unique position in his realm. Moreover, no one doubted that the king was the anointed of God and that resistance, except in unusual cases, was unlawful. The authority of St Paul in the thirteenth chapter of Romans and the strong statements of St Gregory on the duty of obedience would never have been denied in principle. Finally, the tendency of feudalism to subvert public authority and to substitute for it a network of private relations never wholly swallowed up the ancient tradition of the *res publica* which came to the Middle Ages through Cicero, the Roman law, and the Fathers of the church. The conception that a people makes up a commonwealth, organized under its law and capable of exerting through its rulers a public authority, crossed and mingled with the feudal bent towards particularism. Between the ninth and the twelfth centuries this ancient tradition was perpetuated mainly through ecclesiastical writers. Its existence in the ninth century is witnessed by Hincmar of Rheims, and its per-

petuation is witnessed by the fact that, in the twelfth century, it produced in the *Policraticus* of John of Salisbury, the first elaborate medieval treatise on politics. The latter work, though produced at a time when feudalism was perhaps at its height, was in its main outlines distinctively in the ancient mode.[1] In the long run the king was very definitely the beneficiary of this conception of a commonwealth, since he remained the titular representative of the public interest and in some degree the repository of public authority. It was this fact that made the feudal king the starting-point for the development of national monarchy.[2]

The mingling of two ideas—that which conceived the king as party to a contractual relation with his vassals and that which regarded him as the head of the commonwealth—may be illustrated from the theories of the feudal lawyers about the royal power. The king was universally regarded as created by the law and subject to it, and yet, on the other hand, it was commonly admitted that 'no writ will run against the king' and that accordingly he cannot be coerced by the ordinary processes of his own courts. The passages so often quoted from Bracton's *De legibus et consuetudinibus Angliae* show the crossing of the two ideas:

> The king ought to have no equal in his realm, because this would nullify the rule that an equal cannot have authority over his equals. Still less ought he to have a superior or anyone more powerful than he, for he would then be below his own subjects, and it is impossible that inferiors should be equal to those who have greater powers. But the king himself ought not to be subject to any man, but he ought to be subject to God and the law, since law makes the king. Therefore let the king render to the law what the law has rendered to the king, viz., dominion and power, for there is no king where will rules and not the law.[3]

As the vicar of God, the king ought to do justice and accept the ruling of the law in his own cases, even as the least in his kingdom; if he will not, he becomes the minister of the Devil, but his subjects have no recourse except to leave him to the judgment of God. Yet Bracton was willing to entertain the idea that the *universitas regni et baronagium* perhaps can and ought to correct the evil in the king's court.[4] And in a remarkable passage, now agreed to be a contemporary interpolation, the propriety of coercing an 'unbridled' king is flatly asserted.

> But the king has a superior, namely God. Likewise the law, by which he was made king. And likewise his court, to wit, the counts and barons, for

[1] See the Introduction by John Dickinson to his translation of a part of the work; *The Statesman's Book of John of Salisbury* (1927), pp. xviii ff.

[2] The importance of the ecclesiastical tradition in the theory of the Capetian monarchy and the contrast with feudal authority has been emphasized by Luchaire, *Institutions monarchiques de la France sous les premiers Capétiens*, second edition (1891), Bk. I, ch. i.

[3] F. 5*b*. Quoted, with similar examples from other feudal lawyers, in Carlyle, *op. cit.*, Vol. III, Part I, ch. iv.

[4] F. 171*b*; Carlyle, *op. cit.*, Vol. III, p. 71, n. 2.

> the counts are called, as it were, the king's associates, and he who has an associate has a master. Thus if the king should be without a bridle, that is, without the law, they ought to put a bridle on him.[1]

In these passages both the king and the court evidently appear in a twofold capacity. In the one the king is the chief landowner of the realm and the court comprises his tenants; as an institution the court exists to dispose of the difficulties which arise between them in this contractual relation. In the other the king stands as the chief bearer of a public authority inherent in the realm or the folk, which, however, he shares in some not very definite way with his court. In the first relationship the king may be proceeded against like others of the court; in the second capacity no writ will run against him and his responsibility to the law rests ultimately on his own conscience. The one view represents a typical tendency of feudalism to submerge public authority in private relationships; the other represents the continuing tradition of a commonwealth in which the king is the chief magistrate. Perhaps it was just the meeting and mingling of the two conceptions which made the feudal court the matrix from which the constitutional principles and institutions of the later Middle Ages developed. By a process of differentiation a variety of governing bodies—such as the king's councils, law-courts taking cognizance of differing kinds of cases, and finally parliament—came to carry on distinct branches of public business. As late as the civil wars of the seventeenth century, as Professor McIlwain has amply shown, Englishmen still thought of parliament as a court rather than as a legislature. Through this development the conception of public authority emerged into greater clearness, but that authority never centred itself exclusively in the person of the king. When the king became absolute this was a development of modern, rather than of medieval, states. The medieval king had still to act through his council, and the court or some of its branches retained some vestiges of its feudal right to be consulted. From this beginning constitutional ideas, such as representation, taxation and legislation by assemblies, supervision of expenditures, and petition for the redress of grievances, could emerge. In England, at least, the right to legislate could be settled ultimately not in the king, but in the king in parliament.

[1] F. 34; Carlyle, *op. cit.*, Vol. III, p. 72, n. 1. On this passage see G. E. Woodbine's edition of *De legibus*, Vol. I (1915), pp. 332 f.; F. W. Maitland, *Bracton's Note Book*, Vol. I. (1887), pp. 29 ff.; Ludwik Ehrlich, "Proceedings against the Crown (*1216-1377*)," *Oxford Studies in Social and Legal History*, Vol. VI (1921), pp. 48 ff., 202 ff. On Bracton's extraordinary treatment of the dictum *quod principi placuit* in F. 107, see McIlwain, *op. cit.*, pp. 195 ff.

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CHAPTER XII

THE INVESTITURE CONTROVERSY

THE latter part of the eleventh century brought a resumption of intellectual labour upon the body of political and social ideas that had been preserved from antiquity in the tradition of the Christian Fathers and began a development which produced in the centuries following an astonishingly brilliant and virile culture. Order emerged once more from chaos and especially, in the Norman states, began to promise administrative efficiency and political stability such as Europe had not known since Roman times. Feudalism began to settle itself into a more definite system from which were to arise constitutional principles that carried over from the Middle Ages into modern Europe. The cities, first in Italy and a little later in the north, began to build up trade and industry which were to supply the basis for an original and humane art and literature. Philosophy and scholarship made a beginning soon to be fructified by the recovery of important masses of ancient learning. The study of jurisprudence, in southern France and the Italian cities of Ravenna and Bologna, began to restore a knowledge of Roman law and to apply it to contemporary legal and political problems. In this general rise of the intellectual level, affecting every branch of thought, it was natural that political philosophy should share.

In the eleventh and twelfth centuries political writing was in the main controversial, centring about the contest between the popes and the emperors over the boundaries of the secular and ecclesiastical authorities. Its extent, however, is astonishing. Probably the whole extant body of political philosophy written between the death of Aristotle and the eleventh century would occupy fewer pages than the great collection of political tracts that grew out of the struggle over the lay investiture of bishops. As a subject of systematic scholarly investigation political theory emerged more slowly than other branches of philosophical interest. In the thirteenth century it was still overshadowed by the great systems of theology and metaphysics which were the typical creations of the scholastic philosophers. In the fourteenth century treatises on political philosophy became more common, as they continued to be from that time to the present. Yet the preservation of great numbers of tracts from the earlier centuries speaks for a continuous interest in the subject. And even in the eleventh

century certain main issues began to be drawn and certain fundamental problems began to emerge which evolved continuously in the centuries following.

THE MEDIEVAL CHURCH-STATE

The starting-point for the eleventh-century controversialists, in respect to the relations of the secular and spiritual authorities, was the Gelasian theory of the two swords already described, in which the teaching of the Christian Fathers had been summed up. The distinction between spirituals and seculars, between the interests of soul and body, was part of the warp and woof of Christianity itself. According to the view universally accepted in the eleventh century—and, indeed, not overtly denied for centuries thereafter—human society is divinely ordained to be governed by two authorities, the spiritual and the temporal, the one wielded by priests and the other by secular rulers, both in accordance with divine and natural law. No man, under the Christian dispensation, can possess both *sacerdotium* and *imperium*. Neither authority was conceived to exercise an arbitrary power, for both were believed to be subject to law and to fill a necessary office in the divine government of nature and of man. Between the two, accordingly, there could be in principle no conflict, though sinful pride or greed of power might lead the human agents of either to overstep the boundaries allotted by the law. As parts of a divinely unified plan, each authority owed aid and support to the other.

Within this circle of ideas there was, properly speaking, neither church nor state in the modern meaning of those terms. There was not one body of men who formed the state and one which formed the church, for all men were included in both. There was only a single Christian society, as St Augustine had taught in his *City of God*, and it included, at least for the eleventh century, the whole world. Under God this society had two heads, the pope and the emperor, two principles of authority, the spiritual rule of priests and the temporal rule of kings, and two hierarchies of governing officials, but there was no division between two bodies or societies. A controversy between these two hierarchies was in a legal sense jurisdictional, such as might arise between two officials of the same state. The question was one of the proper boundaries of authority and of what the one or the other might lawfully do within the limits, express or implied, of his office. In this sense, and in this sense only, was there controversy between church and state at the beginning of the dispute. As time went on this original conception was gradually set aside, especially as the legal aspects of the dispute became more clearly defined. But in the beginning the issue was between two groups of officials each invested with an original authority and claiming to act within the limits of that authority.

The theory of the separation of the two authorities had never been very literally carried out; it had not been understood to deny that in their earthly exercise they were in contact, or that each body of officials owed aid to the other in their proper functions. Thus it was possible, when controversy broke out, to point on either side to historical acts which were admitted to be justifiable and which yet might be interpreted as a control of the one hierarchy by the other. In the declining days of Rome, Gregory the Great had exercised great temporal power. Both ecclesiastical synods and individual churchmen had followed the precedent of Ambrose in admonishing kings for their misdoings; bishops were regularly counted among the magnates with whose consent laws were enacted; and churchmen had exercised great influence in electing and deposing rulers. Pippin had sought and obtained papal approval for setting aside the Merovingian dynasty in the Frankish kingdom. The famous coronation of Charles the Great in 800 could readily be interpreted as a translation of the empire to the Frankish kings by an authority vested in the church, on the analogy of the institution of Jewish kingship by Samuel. Indeed, the administering of a coronation oath was universally felt to have some religious significance, and like all oaths it might fall within the disciplinary power of the church in moral matters.

On the whole, however, down to the time when the controversy between the ecclesiastical and the imperial jurisdictions broke out in the eleventh century, the control of the emperor over the papacy was more conspicuous and effective than that of the pope over the emperor. This had usually been true as a matter of course in Roman times, and anyone who reads the instructions of Charlemagne to the officers whom he sent on circuit to conduct inquests through his empire will have no doubt that he regarded both churchmen and laymen as his subjects, or that he took full responsibility for the government of the church. In the case of Leo III he had extended his inquisitorial authority to the alleged crimes of the pope himself. In the tenth century, when the papacy fell into exceptional degradation, it was the emperors from Otto I to Henry III who had applied reformatory measures, extending to the deposition, under canonical forms, of Gregory VI and the infamous Benedict IX. In fact, the emperors had exerted a major influence in abolishing the scandals that flowed from a state of affairs in which papal elections were the football of petty patrician politics in the city of Rome. There were, of course, obvious reasons of policy which impelled the emperors to exert their influence in the selection of popes. But this influence, while preferable from a churchman's point of view to local Roman intrigue, was potentially a threat to the autonomy of the church in spiritual affairs.

THE INDEPENDENCE OF THE CHURCH

The controversy of the eleventh century originated in an increased self-consciousness and sense of independence on the part of churchmen and in a desire to make the church an autonomous spiritual power in consonance with the admitted validity of its claims. The tradition of Augustine presented Europe to men's minds as essentially a Christian society, unique in the history of the world because for the first time it brought secular power into the service of divine truth. According to this conception, the ancient ideal of government for the sake of justice reached its consummation in rendering not only to every man his right, but in the more vital duty of rendering to God the worship that was his due. Gelasius, writing against the subordination of ecclesiastical policy to the imperial court at Constantinople, had asserted that the priest's responsibility, being directed towards eternal salvation, was weightier than the king's. Indeed, no other conclusion was logically possible, if spiritual ends had, in fact, the importance which Christianity imputed to them, and if the church were truly the institution by which alone these ends were to be attained. The rising enlightenment of the eleventh century, growing up within the church and dominated by the teaching which the Augustinian tradition made part of the climate of Christian opinion, could not escape the obligation to make this teaching effective. Earlier the circumstances had been lacking which made such an effort possible, but the first great effort of Christian civilization could hardly have been directed to anything but realizing, under papal auspices, the ideal of a Christian society in which the church should be, in fact as in right, the directing force behind a Christian state.

Already in the ninth century, in the brief revival of scholarship permitted by Charles's empire, churchmen had begun to develop the claims of the church in a Christian society. Thus Archbishop Hincmar of Rheims had written:

> Let them defend themselves, if they will, by earthly laws or by human customs, but let them know, if they are Christians, that at the day of judgment they will be judged not by Roman or Salic or Gundobadian law but by divine apostolic law. In a Christian kingdom even the laws of the state ought to be Christian, that is, in accord with and suitable to Christianity.[1]

The revival of the ninth century was a flash in the pan, but in the meantime changes were taking place in the church itself which gave greater effectiveness to claims for the Christian state when the more permanent revival of the eleventh century occurred. These changes affected in part the centralization of papal authority and of ecclesiastical organization within the church and in part the greater seriousness and militancy of churchmen in the pursuit of the Christian ideal. The

[1] Quoted by Carlyle, *op. cit.*, Vol. I, p. 277, n. 3.

first change was connected with the fabrication of the forgeries known as the Pseudo-Isidorian Decretals in the ninth century, and the second with the Cluniac reforms in the tenth.

The False Decretals[1] were evidently produced with the object of strengthening the position of the bishops; in particular, to protect them from deposition and confiscation of property by secular rulers, to consolidate their control over the clergy of the diocese, and to free them from immediate supervision except by their own synods. As means to these ends they aimed to diminish the authority of the archbishops, who were likely to be the agents of secular supervision, and to exalt correspondingly the authority of the popes. They ensured to the bishop the right to appeal his case to Rome and to be secure against deposition or loss of property while it was pending. The finality of a decision by the papal court in every sort of ecclesiastical case was asserted in the strongest terms. The False Decretals, therefore, signify a tendency in the ninth century to centralize the church in Frankish territory about the papal see, to make the bishop the unit of church government, to enforce his direct responsibility to the pope, and to reduce the archbishop to an intermediary between the pope and the bishop. In broad outline this was the type of government that came to prevail in the Roman church. There was probably no immediate purpose to exalt papal authority in general and no immediate effect in that direction. In the eleventh century, however, when the False Decretals were universally accepted as genuine, they provided a mine of arguments for the independence of the church from secular control and for the sovereign authority of the pope in ecclesiastical government. The controversy between the pope and the emperor resulted in no small degree from the fact that the former had now become effectively the head of the church and no longer felt himself to be dependent on the emperor for its good government.

The second event which had greatly increased the church's desire for autonomy was the wave of reform which spread with the growth of the congregation of monasteries subject to the Abbot of Cluny.[2] Cluny itself was founded in 910. An important peculiarity in its organization was the entire independence which the body enjoyed in the management of its affairs and the choice of its heads. A second significant feature of its growth was the fact that, as new monasteries were organized or old ones amalgamated with it, control of these branches continued to be vested in the abbot of the parent body. The Cluniac

[1] They consist of over a hundred spurious letters attributed mostly to the popes of the first three centuries and of numerous spurious reports of councils, inserted into an older body of authentic material. They originated in Frankish territory about the year 850. See P. Fournier, "Études sur les fausses décrétales," *Revue d'histoire ecclésiastique de Louvain*, Vol. VII (1906), pp. 33, 301, 543, 761; Vol. VIII (1907), p. 19.

[2] The standard account is given by E. Sackur, *Die Cluniacenser in ihrer kirchlichen und allgemeingeschichtlichen Wirksamkeit*, 2 vols. (Halle, 1892–94).

monasteries were accordingly much more than isolated bodies of monks; they formed virtually an order centralized under the control of a single head. They were thus well qualified to be the instrument for spreading the idea of reform in the church. Moreover, the purposes of the reformers were much the same as those which had motived the growth of the Cluny monasteries themselves. Simony, or the sale of ecclesiastical offices, was a serious evil which much needed reforming, and it was an evil intimately connected with the employment of ecclesiastics in the work of secular government. The evil consisted not only in the actual sale of offices but also in the giving of ecclesiastical preferment as a reward for political services. It was a foregone conclusion, therefore, that a heightened conception of spiritual functions should bring with it a demand for the purification of the church, for permanently raising the papacy from the degradation into which it had too often fallen, and for an autonomous control of the pope over ecclesiastical officers. It was precisely the more conscientious churchmen who felt most keenly the menace to the spiritual office occasioned by the entanglement of the clergy in the business of secular government. The direction which the reform movement must take in respect to the government of the church was foreshadowed at the Lateran Synod of 1059 by the attempt to secure an orderly method of papal election in the College of Cardinals. Reform meant that the church must seek to make itself a self-governing community with ecclesiastical policy and administration in the hands of ecclesiastics. The progress of such a reform necessarily contained latent possibilities of conflict between the pope and the emperor.

The desire for the autonomy of the church was, in fact, an answer to an abuse which was deeply rooted and which had been steadily growing. Long before the ninth century churchmen were already great landowners. Charles Martel had feudalized large amounts of church land to finance his wars against the Saracens, and as feudalism developed churchmen had been more and more drawn into the system by which government had to be carried on. As an owner of land he owed feudal services and had, in turn, his own vassals who owed services to him, and even though he had to perform the secular duties of his station nominally through lay agents, his interests were largely identical with those of the feudal nobility. The higher clergy, by virtue of their wealth and standing, were deeply concerned with every question of secular politics; they were magnates whose power and influence no king could overlook. Indeed, feudalism apart, their superior education, at least on the average, had made them the most eligible class from which a king could draw the higher officials of his kingdom. It is probably true, as was said in the previous chapter, that the church had been, all through the centuries which had intervened since the fall of Rome, the main repository of the ancient ideals of

public authority and civic order, and that churchmen were likely to be the best agents for carrying out any royal policy which required a degree of royal control. In the eleventh century, therefore, both for reasons that inhered in feudalism itself and for reasons of policy that went beyond feudalism, churchmen were deeply involved in secular politics. In the persons of the higher clergy the organizations of the church and of the state met and overlapped. So completely was this true that a radical separation of the two hierarchies, on the basis of a surrender of political functions by the clergy, was obviously impossible.

The story of the great controversy is told in every medieval history; there is no need to mention here more than a few of the principal moves. It began with the accession to the papal throne of Gregory VII in 1073. In its first phase it concerned especially the lay investiture of bishops, that is, the part of secular rulers in the choice of the higher clergy. Lay investiture was prohibited by Gregory in 1075. The following year Emperor Henry IV tried to secure the deposition of Gregory, who replied by excommunicating Henry and absolving his vassals from their feudal oaths. In 1080 Henry attempted to set up an anti-pope to replace Gregory, and Gregory supported the pretensions of Rudolf of Swabia to Henry's crown. After the death of the two chief actors the outstanding event was the attempted settlement between Henry V and Paschal II on the basis of a surrender by churchmen of all political functions or *regalia*, which proved wholly impracticable. The first phase of the controversy closed with the Concordat of Worms in 1122, a compromise by which the emperor gave up the technical right of investiture with the ring and staff, the symbols of spiritual authority, but retained the right to bestow the *regalia* and to have a voice in the choice of the bishops. After this date, however, the controversy continued at intervals on much the same lines down to the end of the twelfth century, which makes a convenient stopping place for an exposition of the opposed views of the two contending parties.

GREGORY VII AND THE PAPALISTS

In the position taken by Gregory, it is important to bear in mind his conception of his own office in the church, though this was not strictly at issue. At the same time the issue with the empire could hardly have taken the form it did had he not conceived the papal office as he did. From Gregory's point of view the pope was nothing less than the sovereign head of the whole church. He alone could create and depose bishops; his legate was to take precedence of bishops and all other officers of the church; he alone could call a general council and give effect to its decrees. Papal decrees, on the other hand, could be annulled by no one, and a case once called into the papal court was not subject to judgment by any other authority. In

short, Gregory's theory of government in the church was monarchical, not in the sense of a feudal monarchy but more nearly in the sense of the imperial Roman tradition; under God and the divine law the pope was absolute. This Petrine theory of the papacy, though it ultimately gained acceptance, was a novelty by no means universally admitted in the eleventh century and sometimes it embroiled Gregory with his bishops. As the church had kept alive the conception of public authority in the face of the decentralizing influences of feudalism, so it was the first power to apply the conception in its own political reconstruction.

It is difficult, if not impossible, to bring the two sides in the investiture controversy to a clear-cut issue. The reason for this was that both sides professed to accept the long-established principle of the two swords, each supreme in its own province. Yet both sides were obliged to advance arguments which, by implication, set it aside. This was true of the imperialists because what they really desired was the continuation of a state of affairs which, in fact if not in theory, had given the empire a preponderating voice in papal affairs. Their case was weak theoretically but strong in respect to precedents, and as they were forced into a defensive position, they were obliged to make the Gelasian theory the cornerstone of their argument for secular independence. The claims of the church, on the other hand, were virtually unanswerable in the light of the whole scheme of accepted Christian values. But the theory could be made good only if the church could assume a position of leadership and direction which it had not had and which must carry it far away from the admission of co-ordinate authority, under God, to the secular power. Probably neither side intended to usurp authority that properly belonged to the other. The claims on both sides are hard to evaluate because in the eleventh century the legal concepts used had no such exact meaning as they came to have with the development of the Roman and the canon law.

The position taken by Gregory in opposition to Henry IV was a natural, if extreme, development of the church's admitted jurisdiction over questions of morals. In respect to the crime of simony Gregory proposed to proceed not only against the offending ecclesiastic but directly against the secular ruler, who was equally guilty. After forbidding the lay investiture of bishops and finding the emperor contumacious, he undertook to enforce his decree with an excommunication. This in itself was not a novel proceeding, but to it Gregory added the corollary that an excommunicated king, being an outcast from the body of Christians, could not retain the services and fealty of his subjects. He did not claim that oaths could be dissolved by the church at will, but only that it was within its jurisdiction as a court of conscience when it pronounced that a bad oath was lawfully void. The ground upon which Gregory defended his action was the right and the

duty of a spiritual authority to exercise moral discipline over every member of a Christian community. He argued, like St Ambrose, that a secular ruler is himself a Christian and therefore, in moral and spiritual matters, subject to the church. In effect, however, this amounted to the claim that the right to excommunicate carried with it the right to depose, of course for adequate cause, and to absolve subjects from their allegiance. By implication the co-ordinate authority of a secular ruler disappeared, not in the sense that the church would itself take over the functions of secular government, but in the sense that the pope would become a court of last resort on whose judgment a ruler's legitimacy would depend.

It is not easy to tell how far Gregory was clear in his own mind about the implications of the policy which he followed and the argument by which he defended it. There seems to be a fair presumption that he thought of the whole issue as concerning the church's claim to exercise a moral discipline and not as involving a claim of legal supremacy. He professed, and there is no reason to doubt his sincerity, that his object was to protect the independence of the church within the twofold system contemplated by the Gelasian theory. Hence there is probably no reason to believe that he meant to assert in principle a power over temporal rulers in temporal matters.[1] It would be manifestly unfair to assume that his argument had the same precise legal meaning that it would have had in the hands of a canonist like Innocent IV, after two centuries of advance in the precision of juristic definition. On the other hand, there can be no doubt what Gregory's claims really implied.

It is true also that in controversy he was addicted to an unbridled use of language which sometimes put his case with startling violence. This is illustrated by the famous passage, so often quoted, in his letter to Hermann of Metz in 1081.[2] Here he speaks of political rule as if it were literally 'highway robbery on a large scale,' a passage often compared with that in which John of Salisbury named the hangman as the type of secular government.

> Who does not know [said Gregory] that kings and rulers took their beginning from those who, being ignorant of God, have assumed, because of blind greed and intolerable presumption, to make themselves masters of their equals, namely men, by means of pride, violence, bad faith, murder, and nearly every kind of crime, being incited thereto by the prince of this world, the Devil?

This passage was bitterly resented when it was written and has since been quoted, times without number, as an example of clerical arrogance. Certainly it was a violent overstatement of the common belief

[1] Carlyle, *op. cit.*, Vol. IV (1922), pp. 389 ff.

[2] Quoted by Carlyle, *op. cit.*, Vol. III (1915), p. 94. Cf. also Vol. IV, Part III, ch. i. Gregory's writings are in *Bibliotheca rerum Germanicarum*, ed. P. Jaffé, Vol. II, Monumenta Gregoriana; see p. 457.

that government originates in sin, yet it is clear from other passages that Gregory had no intention whatever of attacking the kingly office as such. He claimed merely the same right of discipline over an emperor that as pope he had over every Christian. But he was clear that discipline included the right of the church to be the arbiter of European morals, and that spiritual and moral control must not be stopped by a recalcitrant ruler. His conception of the rôle which churchmen ought to play in directing the affairs of Europe appears in his words to a council at Rome in 1080:

> So act, I beg you, holy fathers and princes, that all the world may know that, if you have power to bind and loose in Heaven, you have power on earth to take away or to grant empires, kingdoms, principalities, dukedoms, marches, counties, and the possessions of all men according to their merits. . . . Let kings and all the princes of the world learn how great you are and what power you have and let these small men fear to disobey the command of your church.[1]

Gregory's argument obviously assumed the superiority of spiritual to temporal power. If Peter has been given power to bind and loose in Heaven, must he not even more have power to bind and loose on earth? This premise to the argument was not really a point at issue, since in general terms no one would have denied it. In itself, however, the superior importance of spiritual matters would not prove that secular rulers derive their authority from the church. Gelasius had never drawn such a conclusion and neither does Gregory. Evidently, however, it would not be difficult to amend the argument into this form, thus leaving the traditional theory of the two swords definitely behind. This step was taken by ecclesiastical writers in the twelfth century and the argument was greatly elaborated in the thirteenth and fourteenth. This was probably an effect of the controversy itself in clarifying the issues, and also a mark of greater definiteness about constitutional and juristic relationships. Perhaps also a more systematic conception of feudalism contributed to the same end, as well as the tendency of the papacy to assume a relation of feudal suzerainty towards southern Italy and other parts of Europe.[2] At a later date, after the reception of Aristotle, the superior importance of spiritual power would in itself constitute an argument for the dependence of the lower authority upon it, since Aristotelianism conceived it to be a general law of nature that the lower exists for, and is governed by, the higher.

The derivation of temporal from spiritual authority appears to have been first definitely maintained by Honorius of Augsburg in his *Summa gloria*,[3] which was written about 1123. His principal proof was drawn

[1] Quoted by Carlyle, *op. cit.*, Vol. IV, pp. 201, n. 1; Jaffé, *op. cit.*, p. 404.
[2] See Carlyle, *op. cit.*, Vol. IV, Part III, ch. iv.
[3] *M.G.H., Libelli de lite*, Vol. III, pp. 3 ff. See Carlyle, *op. cit.*, Vol. IV, pp. 286 ff.

from an interpretation of Jewish history, namely, that there was no royal power until Saul was crowned, that Saul was anointed by Samuel, who was a priest, the Jews having been governed by priests from the time of Moses. In a similar fashion he argued that Christ instituted the priestly power in the church and that there was no Christian king until the conversion of Constantine. It was the church, therefore, which instituted Christian kingship to protect it from its enemies. Coupled with this theory was an interpretation (or rather a misinterpretation) of the Donation of Constantine as a surrender of all political power to the pope.[1] According to Honorius the emperors from Constantine on held all their imperial authority by papal concession. In line with this contention he held that emperors ought to be chosen by the pope, with the consent of the princes.

But having been radical in principle, Honorius was willing to be conservative in application, for he concluded that, in strictly secular matters, kings should be honoured and obeyed even by priests. Even thinkers who were logically cutting the ground from under the old doctrine of the two swords were not willing to abolish it root and branch. Honorius showed also an uncertainty of juristic analysis. His argument from the Donation of Constantine was in the highest degree perilous, for if the pope's authority were delegated, it would seem that the emperor might resume what he had granted. Presumably Honorius thought of Constantine as merely recognizing a right inherent in the church under a Christian dispensation. A stronger position was taken by John of Salisbury in his *Policraticus* some thirty years later. John depended upon the inherent superiority of spiritual power to prove that both swords belong of right to the church and that the church conferred the power of coercion on the prince.

> For every office existing under, and concerned with the execution of, the sacred laws is really a religious office, but that is inferior which consists in punishing crimes, and which therefore seems to be typified in the person of the hangman.[2]

Hence John could defend the power of deposition by quoting the *Digest* to the effect that "he who can lawfully bestow can lawfully take away." The secular ruler has a *ius utendi* but not strictly ownership. It was true, of course, that John did not regard this theory as derogating from the worth of political power in its proper employment or from the sanctity of the political office.

[1] The Donation was forged in the papal chancellery some time in the third quarter of the eighth century, and its purpose was apparently to support the papal claims in Italy at that time. Honorius's interpretation of it as applying to the whole imperial power was novel and must have been either a misunderstanding of its intent or a deliberate extension of its meaning, as this had previously been understood. See *Cambridge Medieval History*, Vol. II, p. 586; Carlyle, *op. cit.*, Vol. IV, p. 289.

[2] *Policraticus*, 4, 3; Dickinson's trans., p. 9.

HENRY IV AND THE IMPERIALISTS

The position taken by the imperialist parties to the investiture controversy was, on the whole, more defensive than that of the papalists. Essentially they were arguing for what had been the *status quo*, in which the choice of bishops, and also papal elections, had been largely subject to imperial influence. They could appeal, against the practically novel claim of ecclesiastical independence, to the generally admitted theory of two independent spheres of authority. The cornerstone of the imperial position, therefore, was the accepted doctrine that all power is of God, the emperor's as well as the pope's. This was the note struck by Henry himself in the letter which he addressed to Gregory in March, 1076.[1] Since his power was derived from God directly and not through the church, he was responsible for its exercise solely to God. Hence he was to be judged by God alone and could not be deposed, unless for heresy.

> You have laid hands upon me also who, though unworthy among Christians, am anointed to kingship, and who, as the tradition of the Holy Fathers teaches, am to be judged by God alone and not to be deposed for any crime, unless I should wander from the faith, which God forbid.[2]

The "tradition of the Holy Fathers" upon which Henry depended was undoubtedly in the main the strong statements of Gregory the Great upon the duty of passive obedience. This conception of the indefeasibility of royal authority had never died out. Hincmar of Rheims had commented in the ninth century on the opinion, which he says was held by certain scholars, that kings are "subject to the laws and judgments of no one except God alone,"[3] though he qualified the view as being "full of the spirit of the Devil." From the eleventh century on this theory was an important part of the imperialist position. It fitted well, of course, with the Gelasian theory that the two swords can never be united in the same hands. What God has given none but God can take away. The argument was undoubtedly strong, for it turned the tables on the papal party of reform. The head and front of Gregory's offence, as Henry presented it, was precisely that he had attempted to wield both powers and so had conspired against the divinely appointed order of human society. To confound spirituals and temporals would defeat the very purpose which formed the chief moral defence for Gregory's action. Under a pretence of making the church independent he would have entangled it still further in secular affairs. Such an argument might well appeal to the more moderate of Gregory's followers. Moreover, Henry's position provided the proper theological answer to be given in all cases where undue clerical ambition

[1] *M.G.H., Constitutiones*, Vol. I, No. 62.
[2] Quoted by Carlyle, *op. cit.*, Vol. IV, p. 186, n. 1.
[3] *Ibid.*, Vol. I, p. 278, n. 2; see also Vol. III, Part II, ch. iv.

could be alleged, namely, the sanctity of secular authority itself. In its own province, therefore, political power could claim to be what King James called "free monarchy." It was this fact which made the divine right of the king a standard argument under all political circumstances which could be construed to threaten ecclesiastical interference.

The theological defence of the emperor, though repeated times without number, did not offer much chance for logical development. This was not true, however, of the juristic arguments, and in the long run the lawyers were the ablest and most effective defenders of secular power. In the beginning, however, this form of argumentation was not so well developed as in later controversies, such as that between Boniface VIII and Philip the Fair of France. Nevertheless, there were interesting beginnings. The earliest of these was the *Defensio Henrici IV regis*[1] (1084) of Peter Crassus, who is said to have been a teacher of Roman law at Ravenna. Peter professed to argue the case between Henry and Gregory on legal grounds. The gist of his argument lay in his insistence upon the indefeasibility of the right of hereditary succession. He urged that the pope or Henry's rebellious subjects had no more right to interfere with his possession of his kingdom, which he had received as heir to his father and his grandfather, than they had to take away any person's private property. For this theory Peter claimed the authority of Roman law as well as of divine law and *ius gentium*. This argument bore no relation to the constitutional theory of imperial authority in the Roman law, as stated by the lawyers either of antiquity or of the Middle Ages, and it was definitely inappropriate to an elective monarch. Peter's theory suggested, however, the characteristic connection of divine right with indefeasible hereditary right. On the whole the theory was less important for its intrinsic merits than for its indication of a tendency to support the secular power by using legal conceptions.

A more important form of the anti-papal argument is to be found in the York Tracts,[2] produced about 1100 in the controversy over investiture between Anselm and Henry I of England. On the issue of investiture the author's argument is hard to evaluate. He asserted sweepingly that the authority of a king is of a higher kind than that of a bishop, that the king ought to rule over bishops, and that he is competent to call a council of the church and to preside over it. Yet at the same time he denied the king's right to invest bishops with their spiritual authority. More interesting, and probably more important, was this author's attack upon the sovereign authority which Gregory had claimed to exercise in the church, since a critical examination of the nature of spiritual authority, and of the pope's share in it, was to

[1] *M.G.H., Libelli de lite*, Vol. I, pp. 432 ff. See Carlyle, *op. cit.*, Vol. IV, pp. 222 ff.
[2] *Ibid.*, Vol. III, pp. 642 ff., especially Tract IV. See Carlyle, *op. cit.*, Vol. IV, pp. 273 ff.

form an important part of the later debates. In an earlier tract, written in defence of the deposed Archbishop of Rouen, he flatly denied the right of the pope to discipline other bishops, arguing that in spiritual matters all bishops are equal, that all enjoy the same authority from God, and are all equally exempt from judgment save by God. The actual power wielded by the Bishop of Rome he called usurpation and explained it as an historical accident depending on the fact that Rome had been the capital of the empire.[1] In yet another of the tracts[2] he asserted that obedience was owed not to Rome but solely to the church; "only the elect and the sons of God can rightly be called the Church of God." The York Tracts appear to contain the germ of the argument which was elaborated two centuries later by Marsilio of Padua in the *Defensor pacis*, where it formed an important part of a tendency to construe spiritual authority not as a power but as a right to teach and preach. The more completely spiritual authority could be given exclusively an other-worldly significance, the more completely it must leave secular authority untrammelled in the fields of law and politics, however great its moral value might be held to be. The argument of the York Tracts was apparently the first somewhat uncertain step on this line of argument.

The controversy, even in the eleventh century, tended to encourage an examination of the foundation of secular authority too. The problem was clearly involved in Gregory's attempt to depose the emperor. As this called out the claim of indefeasible right from the emperor's defenders, so it produced the argument on the papal side that his authority is conditional and that accordingly his subjects' obligations are less than absolute. The conditional or contractual nature of political obligation was implied not only by the practice of feudalism, but was suggested also in the ancient tradition transmitted by the Fathers of the church, especially by the principle that law and government ought always to be contributory to justice. There is, therefore, a fundamental difference between a true king and a tyrant, which implies that there are conditions under which it is justifiable to resist a tyrant. In the eleventh century this position was most clearly stated by Manegold of Lautenbach,[3] and in the twelfth by John of Salisbury, who developed in the eighth book of his *Policraticus* the revolting theory of tyrannicide. In neither case does the argument imply a low estimate of political authority; rather the reverse, since the evil of tyranny is greater just in proportion as true kingship is more august. But the essence of kingship is the office and not the person; hence the individual's right to the office cannot be indefeasible. Manegold used this principle to show that deposition could be justified when a king has

[1] Tract III. [2] Tract VI.

[3] *Ad Gebehardum* (written between 1080 and 1085), *M.G.H., Libelli de lite*, Vol. I, pp. 300 ff.; see Carlyle, *op. cit.*, Vol. III, pp. 160 ff.

destroyed those goods which the office was instituted to preserve. He thus arrived at a comparatively definite theory of contract (*pactum*) between the king and his people.

> No man can make himself emperor or king; a people sets a man over it to the end that he may rule justly, giving to every man his own, aiding good men and coercing bad, in short, that he may give justice to all men. If then he violates the agreement according to which he was chosen, disturbing and confounding the very things which he was meant to put in order, reason dictates that he absolves the people from their obedience, especially when he has himself first broken the faith which bound him and the people together.[1]

A people's allegiance to its ruler is, therefore, a pledge to support him in his lawful undertakings and is *ipso facto* void in the case of a tyrant. So far as the pope's power to depose a king was concerned, Manegold conceived this as the right of a court of conscience to pronounce upon the reality of a *fait accompli*; Gregory's action was defended on the ground that he had 'publicly annulled what was inherently invalid.' The theory that the king stands in a contractual relation to his people in no way contradicted the view that the kingly office itself was of divine origin.

Manegold's theory of a contract was not, therefore, an out-and-out defence of a papal right of deposition. In fact, the dependence of the royal power upon the people could, with equal propriety, be construed as implying its independence of the church. This position had the great advantage of agreeing with the constitutional theory of Roman law, as well as with the imperialist emphasis upon the distinction of the two swords. Its development led to a more critical examination of the historical precedents, such as the deposition of the Merovingian dynasty and the crowning of Pippin, alleged in favour of the pope's power to depose.[2] The conclusion drawn was that the deposition and the choice of a new king were done 'by the common suffrage of the princes,' and merely with the approval of the pope. The position thus taken was historically sound and pierced a weak spot in Gregory's argument. It was especially interesting, moreover, in illustrating a marshalling of secular history in defence of the emperor's independence, and in claiming the decision of secular princes as a sufficient constitutional authority for the deposition or coronation of a king.

The controversy in the eleventh and twelfth centuries served to show the instability and vagueness of the relation between the temporal and spiritual powers in the Gelasian tradition. The two sides stressed different aspects of the tradition, both of which were equally well

[1] Quoted by Carlyle, *op. cit.*, Vol. III, p. 164, n. 1.

[2] See especially the tract *De unitate ecclesiae conservanda* written by an unknown author between 1090 and 1093. The tract was an answer to Gregory's second letter to Hermann of Metz, mentioned above. *M.G.H.*, *Libelli de lite*, Vol. II, pp. 173 ff. See Carlyle, *op. cit.*, Vol. IV, pp. 242 ff.

established. The papalists emphasized the moral superiority of the spiritual power and the imperialists the independence of the two powers from one another. Both positions continued to be an intrinsic part of the argument as the debate was continued into the thirteenth and fourteenth centuries. The earlier controversy suggested also the lines that would be followed as the argument on either side was developed. It needed only that more definite juristic and constitutional ideas should prevail in order that the church's claim of moral superiority should be transformed into a claim of legal suzerainty. And this position had only to be stated to call out a counter argument designed to limit spiritual duties to non-coercive instruction and exhortation. On the side of the temporal power, also, two developing lines of argument were suggested, that which stressed the responsibility of secular rulers directly to God with no earthly intermediary, and that which stressed the right of secular society, under God, to provide for its own government.

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CHAPTER XIII

UNIVERSITAS HOMINUM

As scholarly performances the controversial tracts described in the preceding chapter were quickly outmoded in the extraordinary intellectual rebirth that began in the latter years of the twelfth century and which made the thirteenth one of the most brilliant in the history of Europe. This new scholarly activity, in so far as it depended on institutions, was due chiefly to the new universities, especially Paris and Oxford, and to the two great Mendicant Orders in the church, the Dominicans and the Franciscans. The universities rapidly became centres of an astonishingly active intellectual life. They attracted great numbers of students and counted among their teachers the most active intelligences of the age, who set themselves to study systematically the sciences and especially philosophy and theology. With the universities should be mentioned also the great Law Schools in which an accurate knowledge of Roman law was recovered in the course of the twelfth and thirteenth centuries. The Mendicant Orders almost from the beginning played a large part in the development of the universities, setting up courses of study for the training of their members and providing an important part of the faculties. In the thirteenth century a large proportion of the most original scholars were included in their membership—Albert the Great and Thomas Aquinas among the Dominicans, Duns Scotus and Roger Bacon among the Franciscans.

The universities and the Orders were the agencies through which the new enlightenment spread, but its content was supplied in the first instance by the recovery of ancient works of science, especially the works of Aristotle together with a large body of commentary upon them by Arabic and Jewish scholars. In the earlier Middle Ages nothing had been known of Aristotle beyond his works on logic. Early in the thirteenth century his scientific works began to be known, at first in parts and often in Latin translations of Arabic versions, but finally in complete translations direct from the Greek original. Besides Italy, the main channel for these books was Spain; the Bishop of Toledo fostered great collective enterprises in translating, because contact with the Moors made Arabic texts available. In the history of political thought the translation of the *Politics* from the Greek text by William of Moerbeke about 1260 was of great importance. This translation

formed part of a general effort, under the auspices of Thomas, to secure a reliable report of Aristotle's philosophy. The ultimate effect of this revival of Aristotle upon the intellectual development of western Europe would be impossible to exaggerate. Not only was a great fund of information made available, such as the earlier Middle Ages could scarcely imagine, but this was already ordered and arranged in sciences, such as physics, zoology, psychology, ethics, and politics, and these sciences were co-ordinated as parts of a systematic conception of nature, whose first principles were drawn out in the form of metaphysics. Most important of all, Aristotle brought to the Middle Ages a new vision of the intellectual life of Greece and the belief that reason is the key which must unlock the door to a knowledge of the natural world. From the thirteenth century to the present, this stimulus has never been wholly lost. At the start it produced an intense intellectual effort to master Aristotle, to adapt and harmonize him with the system of Christian belief, and to construct an all-embracing system of natural and theological knowledge.

While it would be impossible to overstate the importance in the long run of the recovery of Aristotle, its immediate effects upon political philosophy can easily be exaggerated. What the study of the *Politics* produced at once was an improvement in the technique of presenting the subject, such as a standard list of subjects to be treated, a body of technical terms and conceptions, and a plan for the arrangement of material. Until the sixteenth century it was scarcely possible to write a treatise on politics which in these respects did not owe a debt to the *Politics*. Clearly, however, the adoption of Aristotelian arguments need not imply a change in fundamental political convictions or in the nature of the concrete problems that political philosophers were thinking about. In any case conceptions framed by Aristotle relative to the city-state could have no literal application to medieval society, but required a considerable revision for the purposes in hand. Moreover, Thomas at least had no desire to depart from the great body of political and social tradition that had descended to the thirteenth century from the Fathers of the church; so far as this inheritance was concerned, as in the case of the whole body of Christian belief, he valued Aristotelianism less as a means of making innovations than as a better philosophical support for well-founded beliefs. In the thirteenth century, also, the chief attention of the new scholarship was given rather to theology and metaphysics than to political theory. In the fourteenth, the writing of political treatises was much more frequent.

JOHN OF SALISBURY

This conclusion, that the recovery of Aristotle did not at once change the main lines of political philosophy, is supported by a consideration

of the *Policraticus*,[1] written by John of Salisbury in 1159. This book has the great interest of being at once the first attempt in the Middle Ages at an extended and systematic treatment of political philosophy, and the only such book written before the recovery of Aristotle. It is a compendium of the ancient tradition which had descended to the twelfth century from Cicero and Seneca through the Fathers of the church and the Roman lawyers. In most respects it tried to set forth with a fair degree of order what every one believed and, so far as was known in the twelfth century, had always believed. Those who have studied the book most carefully have agreed that there is surprisingly little in it that depends consciously on the feudal organization of society which actually prevailed when John wrote. His ideal was rather that of the commonwealth, the *res publica*, conceived after the manner of Cicero as a society 'united by a common agreement about law and rights.' In spite of the centrifugal influences of feudalism the essential idea in John's political thought was still that of a people ruled by a public authority which acts for the general good and is morally justified by the fact that it is lawful.

The law, in John's conception, forms an omnipresent tie running through all human relationships including that between the ruler and the ruled. Consequently it is binding mutually on king and subject. So true is this that the distinction between a true king and a tyrant was of major importance for John. His book had the doubtful honour of presenting the first explicit defence of tyrannicide in medieval political literature. "He who usurps the sword is worthy to die by the sword."

> Between a tyrant and a prince there is this single or chief difference, that the latter obeys the law and rules the people by its dictates, accounting himself as but their servant. It is by virtue of the law that he makes good his claim to the foremost and chief place in the management of the affairs of the commonwealth.[2]
>
> Now there are certain precepts of the law which have a perpetual necessity, having the force of law among all nations, and which absolutely cannot be broken with impunity. . . . Let the white-washers of rulers . . . trumpet abroad that the prince is not subject to the law, and that whatsoever is his will and pleasure, not merely in establishing law according to the model of equity, but absolutely and free from all restrictions, has the force of law. . . . Still I will maintain . . . that kings are bound by this law.[3]

Except the defence of tyrannicide, there was nothing in John's conception of law and its universal validity which Thomas did not share. John expressed the idea in terms drawn largely from Cicero, while Thomas elaborated it by adapting Aristotle's technical terms. In both men the universality of law was a fundamental conception.

[1] The standard edition is edited by C. C. J. Webb (Oxford 1909). Parts are translated by John Dickinson under the title, *The Statesman's Book of John of Salisbury* (New York, 1927). Dickinson has added an excellent introduction.

[2] Bk. IV, ch. i; Dickinson's trans., p. 3. [3] Bk. IV, ch. vii; *ibid.*, pp. 33f.

ST THOMAS: NATURE AND SOCIETY

Coming first to Christian Europe through Jewish and Arabic sources, the works of Aristotle bore the stigma of infidelity. The earliest inclination of the church was to ban them, and their use at the University of Paris was forbidden in 1210 and later, though the prohibition seems never to have been very effective. The church wisely relied less on prohibition than on reconstruction, and there is no better evidence of the intellectual virility of medieval Christianity than the rapidity with which Aristotle was not merely received but made the cornerstone of Roman Catholic philosophy. In less than a century what had been feared as a source of anti-Christian innovation was turned into a new and, it was hoped, a permanent system of Christianized philosophy. This work was accomplished by the teachers of the Mendicant Orders, especially by the two Dominicans, Albert the Great and his still greater pupil, Thomas Aquinas. It is true that the completeness and the permanence of the victory were over-estimated. Beside the Christianized Aristotle of Thomas there was, from the thirteenth century on, the anti-Christian Aristotle of the Averroist tradition. And even within the limits of orthodox scholasticism Franciscan thinkers, such as Duns Scotus and William of Occam, had always a doubt about the close synthesis of faith and reason that Thomas attempted. In the fourteenth century these divergences of thought appeared in political theory no less than in general philosophy.

It was of the essence of Thomas's philosophy that it essayed a universal synthesis, an all-embracing system, the keynote of which was harmony and consilience. God and nature are large enough and opulent enough to afford a niche for all the endless diversity that makes up finite existence. The whole of human knowledge forms a single piece. Broadest in extent but least highly generalized are the particular sciences each with its special subject-matter; above these is philosophy, a rational discipline which seeks to formulate the universal principles of all the sciences; above reason and depending upon divine revelation is Christian theology, the consummation of the whole system. But though revelation is above reason, it is in no way contrary to reason; theology completes the system of which science and philosophy form the beginning, but never destroys its continuity. Faith is the fulfilment of reason. Together they build the temple of knowledge but nowhere do they conflict or work at cross purposes.

The picture which Thomas drew of nature conformed exactly to his plan of knowledge. The universe forms a hierarchy reaching from God at its summit down to the lowest being. Every being acts under the internal urge of its own nature, seeking the good or form of perfection natural to its kind, and finding its place in the ascending order according to its degree of perfection. The higher in all cases rules over

and makes use of the lower, as God rules over the world or the soul over the body. No matter how lowly it may be, no being is wholly lacking in value, for it has its station, its duties and its rights, through which it contributes to the perfection of the whole. The essence of the scheme is purpose, subordination to an end. In such a structure human nature has a unique place among created beings, since man possesses not only a bodily nature but also a rational and spiritual soul by virtue of which he is akin to God. He alone of all beings is at once body and soul, and on this fundamental fact rest the institutions and the laws by which his life is directed.

Thomas' conception of social and political life falls directly into his larger plan of nature as a whole, and the most important passages in which he treated the subject were a part of his great systematic work on philosophy and theology.[1] Like all nature, society is a system of ends and purposes in which the lower serves the higher and the higher directs and guides the lower. Following Aristotle, Thomas described society as a mutual exchange of services for the sake of a good life to which many callings contribute, the farmer and artisan by supplying material goods, the priest by prayer and religious observance, and each class by doing its own proper work. The common good requires that such a system shall have a ruling part, just as the soul rules the body or any higher nature rules the lower. Thomas compares the founding and ruling of states, the planning of cities, the building of castles, the establishment of markets, and the fostering of education to the providence whereby God creates and rules the world.

Hence rulership is an office or a trust for the whole community. Like his lowest subject, the ruler is justified in all that he does solely because he contributes to the common good. His power, because it is derived from God for the happy ordering of human life, is a ministry or service owed to the community of which he is the head. He cannot rightfully exercise power or take property by taxation beyond what is needed. The moral purpose of government is, therefore, paramount. Broadly speaking, it is the duty of the ruler so to direct the action of every class in the state that men may live a happy and virtuous life, which is the true end of man in society. Ultimately of course, this must lead to a good beyond earthly society, to a heavenly life, but this is beyond human power and is in the keeping of priests rather than of rulers. But it is characteristic of Thomas that he should regard an orderly political life as a contributing cause even to this ultimate end.

[1] *Summa theologica*, 1*a*, 2*ae*, qq. 90–108 (Eng. trans. by the Fathers of the English Dominican Province, London, 1911–22). Two other works were left unfinished at his death: *De regimine principum* (Eng. trans. by Gerard P. Phelan, Toronto, 1935), of which Book I and Book II, ch. i–iv are by Thomas, the rest probably by Ptolemy of Lucca; the commentary on Aristotle's *Politics*, of which Books I and II and Book III, ch. i–vi, are by Thomas, the rest probably by Peter of Auvergne. See M. Grabmann, *Die echten Schriften des hl. Thomas von Aquin* in C. Baeumker's *Beiträge zur Gesch. d. Phil. d. Mittelalters*, Vol. XXII.

More specifically it is the function of the earthly ruler to lay the foundations of human happiness by maintaining peace and order, to preserve it by seeing that all the needful services of public administration, of judicature, and of defence, are performed, and to improve it by correcting abuses wherever they occur and by removing all possible hindrances to the good life.

The moral purpose for which political rule exists implies that authority ought to be limited and that it ought to be exercised only in accordance with law. Thomas's dislike of tyranny was as great as that displayed by John of Salisbury though he explicitly disavowed the latter's defence of tyrannicide. Justifiable resistance is a public act of a whole people, and the right is safeguarded by the moral condition that those who resist are responsible for seeing that their action is less injurious to the general good than the abuse which they are trying to remove. Sedition he regarded as a deadly sin, but justifiable resistance to tyranny he denied to be sedition. In respect to tyranny the harmonizing of the older medieval tradition with Aristotle presented no difficulties, for both were versions of the same Greek detestation of unlawful force, and both proceeded from the principle that power is justified only in so far as it serves the common good. It cannot be said that Thomas derived anything important from Aristotle to add to existing opinion on this subject. His interest was essentially in the moral limitations laid upon rulers, and the legal or constitutional phases of the subject seem not to have concerned him. Thus he had little to say about forms of government beyond what he got from Aristotle, and his defence of monarchy, which he regarded as the best form, followed the rather academic lines pursued in the *Politics*. He was explicit on the point that a king's power should be 'limited' (*temperetur*), though he nowhere explained exactly what this meant. It is probably safe to assume that he had in mind a sharing of power between the king and the magnates of the realm, who are his natural advisers and electors.

Thomas was explicit also on the point that true government, as distinguished from tyranny, is 'lawful,' but he was curiously unconscious of the need to define precisely what lawful authority means in this connection. Though he was acquainted with the Roman law, he was evidently unaware of any tendency in this study to exalt the power of a sovereign ruler over the law itself. He must have known also the great controversial literature dealing with the papal and the imperial authorities, but this failed to stimulate him to a precise examination of the principles upon which political authority is based. In connection with his treatment of tyranny he referred to two remedies which are available against tyrants. There are, he assumed, governments in which the ruler's power is derived from the people, and in this case it is lawful for the people to enforce the conditions upon which authority has been granted. The other remedy mentioned is in the case of a

ruler who has a political superior, and here the redress of grievances is by an appeal to that superior.[1] But he clearly regarded these as two distinct types of government, which seems to show that he had no general theory of the derivation of political authority.

THE NATURE OF LAW

The reason why Thomas could thus pass over what seems an essential point in political philosophy probably lay in the fact that he was so deeply immersed in the medieval tradition of the sanctity of law. His reverence for law was such that he assumed its authority to be inherent and not dependent upon any human origin. His constant attempt was to relate human law as closely as possible to divine law. To this he was led not only by his own inclination to harmonize, but also by the assumption that law is something much broader in its scope than a means of regulating human relationships. Human law was, for him, part and parcel of the whole system of divine government whereby everything both in Heaven and earth is ruled. Such a system Thomas regarded as quite literally an emanation from the reason of God, regulating the relationships between all creatures, animate and inanimate, animal and human. Law in the narrower human sense was, therefore, merely one aspect, important indeed but still an aspect, of a cosmic fact. This was the point which seemed to him important, and accordingly he developed his general theory of law more carefully than any part of his political theory. His classification of law was, therefore, one of the most characteristic parts of his philosophy. But it had the effect of reducing a specifically legal or institutional definition of lawful authority to the status of a subordinate question. An unlawful ruler was not primarily a violator of human rights and institutions, though he was that, but a rebel against the whole divine system by which God rules the world.

In Thomas's fourfold classification of law only one of the four is human. It was significant of his point of view that he was thus able to find a conception of law which he conceived to be applicable to a range of phenomena so wide and, to modern thought, so diverse. This was not, as might be imagined, because he thought of nature as miraculously governed by the will of God, but for an almost contrary reason. It was because he thought of human society and its institutions as a typical level of the cosmic order, in which the same principles obtain that manifest themselves in different forms on the other levels. Arbitrary will had very little to do with the matter, either in nature or society. Both are governed by reasons or ends, more than by forces; certainly Thomas had no conception of a will, divine or human, that made law by fiat, either for nature or for society. His four kinds of law

[1] *De reg. princ.*, 1, 6.

are four forms of reason, manifesting themselves at four levels of cosmic reality, but remaining one reason throughout. The names which he gave to them were the Eternal Law, the Natural Law, the Divine Law, and Human Law.

The first of these, the Eternal Law, is practically identical with the reason of God. It is the eternal plan of divine wisdom by which the whole creation is ordered. In itself this law is above the physical nature of man and in its entirety beyond human comprehension, though it is not for this reason foreign or contrary to human reason. So far as his finite nature permits, man really participates in the wisdom and goodness of God; these are reflected in him, though his nature reproduces only a distorted image of divine perfection. The second, Natural Law, may perhaps be described as a reflection of divine reason in created things. It is manifest in the inclination which nature implants in all beings to seek good and avoid evil, to preserve themselves, and to live as perfectly as possible the kind of life suitable to their natural endowments. In the case of mankind this means, as Aristotle had taught, the desire for a life in which the rational nature may be realized. Thomas mentioned as examples of this the inherent inclination in men to live in society, to preserve their lives, to beget and educate children, to seek the truth, and to develop intelligence. Natural Law enjoins all that is implied to give these human inclinations their widest scope.

Thomas's treatment of Divine Law was interesting, because here he reached the borders of what might be called natural reason, and the position which he took was very characteristic. By Divine Law he meant substantially revelation. An example would be the special code of laws which God gave to the Jews as the chosen people or the special rules of Christian morals or legislation, given through Scripture or the church. Divine Law is a gift of God's grace rather than a discovery of natural reason. Thomas was little likely to underestimate the importance of Christian revelation, but what must be noticed is the care that he took not to open too wide a cleft between this and reason. Revelation adds to reason, but never destroys it. The structure of Thomas's system is built of reason and faith, but he never doubted that it was one structure. His applications even on the political level were interesting and important. Natural Law, because it is produced by the unaided reason, is common to all men, both Christian and pagan; hence morals and government do not in general depend upon Christianity. The obligation to civic obedience is not weakened, but rather strengthened, by it, and the Christian subjects of a pagan prince are not justified in refusing him obedience. Heresy, indeed, he regarded as one of the worst of crimes, since it falsifies the truth on which salvation depends, and the church may rightly absolve the subjects of an apostate or heretic ruler. But even the church ought not to depose a ruler merely because he is an infidel. Thomas's very moderate and reason-

able position on this question perhaps reflects the influence of Aristotle's natural community upon him. It is diametrically opposed to that taken by extreme papalists of the following century, such as Egidius Colonna, upon whom the Aristotelian influence was less marked.

The Eternal, the Natural, and the Divine Laws all set standards of behaviour which, though sometimes applicable to human beings, are not exclusively applicable to them or specifically derived from human nature. The law especially designed for human beings Thomas called the Human Law, which he subdivided into *ius gentium* and *ius civile*. This law he regarded as in one sense specific, since it regulates the lives of a single kind of creature, and so must be applicable especially to the distinguishing properties of that kind. In another sense Human Law might be said to introduce no new principles; it merely applies to human kind the greater principles of order that prevail throughout the world. Any law sets a standard according to which a being of some sort is moved to act or restrained from acting. In the case of human beings, since man is distinguished from other beings by rationality, the standard is set by reason; and since reasonableness in man implies sociability, the law sets a standard for the general good, rather than for the advantage of an individual or a particular class. For this reason, also, the law has behind it a general authority rather than an individual will: it is a product of the whole people acting for their joint good, either by legislation or by the less tangible means of creating custom, or it has the sanction of a public personage to whom the care of the community has been delegated. Finally, Thomas regarded promulgation as an essential quality of law. His completed definition, therefore, describes law as "an ordinance of reason for the common good, made by him who has care of the community, and promulgated."[1] Thomas thus translated the ancient belief in 'true law,' embedded from the beginning in the Christian tradition, back into the terminology of Aristotle and freed the latter from any specific reference to the city-state. The tradition was changed in no essential respect, but Aristotle provided a more systematic mode of statement.

Though the definition just given has a special reference to Human Law, probably the weight of Thomas's argument falls on the point that Human Law is derivative from Natural Law. The justification for human regulation, and for the coercion by which it is made effective, he conceived always to lie in the nature of human beings; power merely gives force to that which is inherently reasonable and right. As a whole, then, Human Law might be called a corollary of Natural Law, which merely needs to be made definite and effective in order to provide for the exigencies of human life or of special circumstances in human life. Thus, for example, murder is contrary to nature, since it is incompatible with peace and order, but Natural Law does not

[1] *Summa theol.*, 1*a*, 2*ae*, q. 90, 4.

provide a precise definition of murder as distinct from other kinds of homicide, nor does it provide a specific penalty. In other words, the act is wrong because it violates a general principle of conduct in society; because it is wrong it must be prevented or punished; but the best way to prevent or punish it is partly a question of policy and may vary with time, place, and circumstance. The principle is the same always and everywhere, since the fundamental inclinations of men remain the same; the precise way in which this underlying human nature develops can vary endlessly from nation to nation, and from time to time. Government is, therefore, a kaleidoscope of changing patterns, and yet there is one right, one law, and one justice behind all. Life has a single end, but many means.

It speaks volumes for the persistence and the pervasiveness of this moral conception of law and government that John Locke, writing four centuries later, could still find no argument more convincing with which to defend the fundamental right of a people to depose a tyrannous ruler. The underlying moral relations between Natural and Human Law are still for Locke substantially what they were for Thomas. For both men the ruler is as definitely bound by reason and justice as his subjects, and his power over the positive law arises from the need of keeping it in agreement with Natural Law. Enactment is less an act of will than an adjustment to time and circumstance; the granting of dispensations or pardons is a way of meeting cases where the literal interpretation of Human Law would be inequitable, but the ruler's power is only such as is implied by his guardianship of the common good. Thus, according to Thomas, he may not take private property beyond what public need requires, though strictly speaking property is an institution of Human rather than Natural Law. Above all, the rulership of one man over another must not take away the free moral agency of the subject. No man is bound to obedience in all respects, and even the soul of a slave is free (a doctrine which Aristotle would hardly have understood). It is for this reason that the resistance of tyranny is not only a right but a duty.

It is probable that Thomas's Christian Aristotelianism explains the fact that he took so temperate a stand on the controversy between the spiritual and the secular authorities. His position may be described as that of a moderate papalist. He was convinced that there are circumstances in which it is lawful for the church to depose a ruler and absolve his subjects from their allegiance,[1] and as a matter of course he regarded the *sacerdotium* as a higher kind of authority than the *imperium*[2]. But he still felt himself to be within the Gelasian tradition. The fact that the church represented to him the fullest embodiment of the unity of human kind was not thought to imply either an abridgment of secular power in respect to seculars or any serious obscurity in the

[1] *Summa theol.*, 2a, 2ae, q. 12, 2.

[2] *De reg. princ.*, 1, 14.

distinction between the two authorities. Thomas was little touched by the tendency already apparent in the canon lawyers to transform the church's admitted spiritual superiority into legal supremacy, and he was probably restrained by his Aristotelianism from developing the theological arguments used by extreme papalists who were less influenced by Aristotle. On the other hand, he was, of course, quite untouched by the Averroist or naturalistic Aristotelianism which he was mainly instrumental in defeating, and which drew a sharp line between reason and revelation.[1] This separation, best illustrated by Marsilio of Padua, played a decisive part in producing a purely secular theory of the state. The conception of a Christian society, as it had been transmitted in the Christian tradition, Thomas took to be eternal. Controversies might come and go, but they could not make essential changes there. His philosophy sought to find the reasons for it as it was believed to be; to construct a rational scheme of God, nature, and man within which society and civil authority find their due place. In this sense Thomas's philosophy expresses most maturely the convictions, moral and religious, upon which medieval civilization was founded.

DANTE: THE IDEALIZED EMPIRE

Thomas's philosophy may be considered as an authoritative statement of the ideal of a Christianized Europe from the point of view of the church. Beside it may be placed for purposes of comparison, though with a slight violation of chronological order, the theory of the universal monarchy set forth by the poet Dante.[2] Dante's book was, to be sure, a defence of imperial independence against papal control and hence, on the controversial issue, on the opposite side to that taken by Thomas and John of Salisbury. Yet there is substantial agreement in respect to general principles, despite the controversial differences. All three men conceived Europe as a unified Christian community governed by the two divinely appointed authorities, the *sacerdotium* and the *imperium*, which are vested in the two great medieval institutions, the church and the empire. All three look at political and social questions from the point of view of the religious and ethical tradition of the earlier Middle Ages, and Thomas and Dante are still under the control of this tradition, though they have adopted Aristotle as the best

[1] Martin Grabmann has correlated Thomas's Christianized Aristotelianism with the sixteenth-century theory of 'indirect' papal power, Averroist Aristotelianism with the theory which separated church and state, and the anti-Aristotelian or Augustinian tradition with the theory of 'direct' power. See his "Studien über den Einfluss der aristotelischen Philosophie auf die mittelalterlichen Theorien über das Verhältnis von Kirche und Staat," *Sitzungsberichte der Bayerischen Akademie der Wissenschaften*, Philosophisch-historische Abtl., 1934, Heft 2.

[2] *De monarchia* was probably written on the occasion of the Emperor Henry's Italian expedition, 1310–13. There are several English translations, the most accessible being those by P. H. Wicksteed (in the Temple Classics) and by A. Henry (Boston, 1904).

technical medium in which to express their ideas. Of the two Dante, though he wrote a half-century later, is the more bound by the tradition, since the empire which he defends never existed outside the realms of imagination.

It is true that Dante's political philosophy was related both to his exile from Florence as a result of factional political quarrels and to the endless dissension between the papal and imperial parties in Italy during his lifetime. In this situation he saw no hope for peace except in the unity of the empire and under the all-embracing authority of the emperor. Neither by birth nor breeding was Dante a partisan of the imperial cause. His imperialism was purely an idealization of universal peace. His opposition to the papacy was of the sort that, again and again, inspired Italian patriots. He saw that papal policy was a source of never-ending dissension, with France always ready to 'mediate' at the invitation of one faction or the other. But he was no nationalist in politics, though his writings did so much to create an Italian vernacular. At the very time when a nationalist note was making its appearance in France, in the controversy between the pope and Philip the Fair, Dante looked back to an already obsolete imperial policy which had ruined the Hohenstaufen.

The purpose of his treatise was identical with that of all defenders of the empire since the controversy with the church began in the days of Henry IV and Gregory VII, to show that the emperor's power is derived directly from God and is, therefore, independent of the church. The spiritual power of the pope he fully admitted, but like the imperialists generally, he clung to the Gelasian theory that the two powers are united only in God and consequently that the emperor has no human superior. The main line of proof which Dante developed was perhaps first suggested by the renewed study of Roman law, the theory that the medieval empire, being continuous with the Roman Empire, was the heir to the universal authority which had rightfully belonged to Rome. But his way of presenting this argument was theological rather than legal. Like Thomas, he placed his theory of the universal community within a framework of principles derived from Aristotle.

In the first book of his treatise, Dante discussed the question "whether the temporal monarchy is necessary to the well-being of the world." The 'temporal monarchy' he defined as the government of the whole body of temporal beings. Every association of human beings is formed for the sake of an end, and by a line of argument roughly analogous to that used by Aristotle to prove the superiority of the city-state to the family and village, Dante assigned the highest place among communities to the universal empire. Since the special character of man is reason, the end or function of the race is to realize a rational life, and this is possible only if there is universal peace, which is the best

of things for human happiness and a necessary means to the ultimate end of man. Every co-operative enterprise requires direction, and hence every community must have a ruler. In this way Dante proved that the whole race forms one community under a single ruler. The government of this ruler he compared to the government of God over nature. As the latter is perfect because of its unity, so the former to be perfect must embrace all men under a single authority. That which has the most reality has the greatest unity, and that which has the greatest unity is best. Moreover, the existence of peace among men is impossible unless there is a highest judge altogether above greed and partiality, who can adjudicate quarrels between kings and princes. Similarly, freedom is impossible unless there is in the world a power raised altogether above tyranny and oppression. The argument combines curiously the traditional idealization of the empire with the new Aristotelian categories of explanation.

Dante approached his conclusion more closely in his second book, which answered the question "whether the Roman people were justified in assuming the dignity of empire." The main contention was that God's will is manifested in history, and that the history of Rome showed the marks of providential guidance in her rise to a position of supreme power. This Dante proved by pointing to the miraculous interventions of providence which protected the Roman state, and also to the nobility of the Roman character. The Romans sought empire not from greed but for the sake of the common good of the conquered as well as the conquerors.

> Putting aside all greed, which is always contrary to the public interest, and choosing universal peace with liberty, this holy people, pious and renowned, is seen to have neglected its own advantage to care for the public safety of the human race.[1]

Finally, the will of God is manifested in contests and battles. The Roman Empire, in Dante's conception, was the fifth of the historic attempts at world empire, and it alone succeeded. By distancing all other contestants, as well as by actually conquering its rivals, Rome proved that it was destined in the providence of God to rule the world. Dante clinched the argument by deducing the same conclusion from the principles of Christianity itself. Unless the death of Christ were decreed by a lawful authority He would not truly have been 'punished' for the sins of men and would not have redeemed the race. Hence the authority of Pilate, and equally that of Augustus, must have been lawful and right. In these arguments also there is a strange combination of the new and the old—enthusiasm for pagan antiquity defended by the arguments of Christian theology.

The last book was more controversial; it sought to show that imperial authority was derived immediately from God, and to refute the

[1] *De monarchia*, Bk. II, ch. v.

arguments of the papalists, who held that it is derived mediately through the pope. Here Dante showed a strong animus against the canon lawyers and the tendency to make papal decretals into foundations of faith. Only the Scriptures, he held, have a supreme authority over the church; next in weight are acts of the principal councils, while the decretals are merely traditions which it is within the power of the church to change. Having thus cleared the ground, Dante examined the principal passages of Scripture alleged as authorities for the power of the church over temporal rulers, and the two critical precedents from secular history, the Donation of Constantine and the translation of the empire to Charlemagne. The former of these he regarded as unlawful, since the emperor had no legal power to alienate the empire, a common view among lawyers long before the historical authenticity of the document was attacked. This argument disposed also of the second alleged precedent, for if the pope could not legally have imperial power he could not bestow it on Charles. Finally, Dante concluded with a general argument to show that the possession of temporal power is in principle contrary to the nature of the church, whose kingdom is not of this world.

Though Thomas and Dante stood thus on opposite sides of the controversy between pope and emperor, they were wholly at one in their fundamental convictions. Nor has the acceptance of Aristotle by the two later thinkers made a profound difference between them and John of Salisbury, who preceded the Aristotelian revival. For all three the race forms a single community whose existence implies a single head. All agree that the distinguishing mark of human nature is its combination of a spiritual and a physical principle, each requiring an appropriate kind of authority. The government of the world is, therefore, shared between a spiritual and a temporal power, each having its proper jurisdiction and marked off from the other by a line not too hard to trace. This single world-wide society may be called, with only a difference of emphasis, either a commonwealth or a church. Whether in church or state, power is justified ultimately as a factor in the moral or religious government of the world, and yet as equally a factor in the life of a self-sufficing human community. Authority is derived at once from God and from the people. The king is at once the head of the legal system and subject to the law. His power exceeds that of his subjects, and yet is less than that of the whole society. His authority is the voice of reason, and yet his coercive power is needed to give force to the rules which reason imposes. The controlling social conception is that of an organic community in which the various classes are functioning parts, and of which law forms the organizing principle. The rightfully controlling force is the well-being of the community itself, which includes the eternal salvation of its members. In this vast system of cosmic morals all men, and, indeed,

all beings are included. From God at the summit down to the meanest of His creatures all act their part in the divine drama that leads to eternal life.

This supreme synthesis was the first reaction of the new Aristotelianism upon the long tradition of Christendom from the age of the Fathers down to the thirteenth century. In Thomas and Dante the intellectual stimulus of Aristotle had resulted mainly in a firmer systematization of the tradition, which concealed its inherent difficulties rather than removed them. Scarcely was Thomas's system complete before the seams of his great structure began to open. The difficulty of applying Aristotle's conception of a self-sufficing society to the empire was obviously insuperable; this was apparent in Dante, and would have been so in Thomas had the nature of the empire been a major concern with him. Scarcely less was the difficulty of bringing the church, with its claim of supernatural origin and theocratic authority, into a system so profoundly naturalistic in its implications as Aristotle's philosophy. The root of political Aristotelianism is the belief that society grows from natural human impulses which, human nature being what it is, are inescapable and that the human community thus formed provides all that a perfected human nature requires. The well-being of spirit as distinct from body, the destiny of the soul beyond an earthly life, an institution with an other-worldly claim of right, and a truth revealed from sources beyond reason, were all out of harmony with the temper of Aristotle's philosophy, and out of place in his conception of society. For the essence of his political theory is the presumption that the state is an outgrowth of the natural evolution of society, and is justified by the moral values it sustains, without any explicitly religious sanction. In Thomas himself this phase of Aristotelianism accounted for the extreme moderation with which he treated the right of the church to intervene in secular affairs. The following century produced the works of William of Occam and Marsilio of Padua, not less Aristotelian than Thomas, but vastly farther from the Christian tradition which he tried to rationalize and from the synthesis of philosophy and revealed truth which he tried to frame. There was as yet no thought of a frontal attack on the church or on revelation. The first sign of decadence was the sharper discrimination of reason and faith, of spiritual and secular, to be followed by a long process of limitation and restriction which ultimately would immure the spiritual power innocuously in the supersensible world and the inner life.

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CHAPTER XIV

PHILIP THE FAIR AND BONIFACE VIII

ST THOMAS and Dante stood so completely within the tradition of a single European society that they failed to realize how insecure were the foundations of this tradition or how imminent were the changes that would destroy the system which they took to be eternal. Dante failed to see how hollow were the pretensions of the fourteenth-century empire to exert any real control over European politics, and how completely the nascent differences of nationality divided the peoples that such an empire would have to rule. Both Dante and Thomas failed to appreciate the effect of legal studies in the thirteenth century, both in the civil and canon law, on the old vague comity which the Gelasian theory assumed between the two powers. Aristotle here was a bad guide, and the growing legalism of political discussion influenced philosophers and theologians more slowly than men of affairs. The canon lawyers had already created a theory of the papacy which changed the church's right of spiritual discipline into a claim of legal supervision. In the fourteenth century this claim could hardly be met, as it was in the sixteenth, by a sweeping denial of the validity of canon law. What was first needed was a more precise analysis of the spiritual and secular authorities and especially a more exact delimitation of the spiritual, if the papal jurisdiction was to be hedged within tolerable limits. Finally, both men failed to appreciate at its full weight the dangerous secularism that might lurk in Aristotle's *Politics*, especially in the theory that civil society is itself perfect and self-sufficing, not requiring sanctification by any supernatural agency. All these tendencies of disintegration made their appearances in the fourteenth and fifteenth centuries.

The process took place in three great waves which form the subjects of this and the following two chapters. In the first, the controversy between the papacy and the kingdom of France in 1296–1303, the theory of papal imperialism, already well settled in the canon law, was brought to completion. At the same time it was decisively defeated by the national cohesion of the French kingdom, and the opposition to it began to take definite form and direction, in hedging about the spiritual power and in laying claim to independence for the kingdoms as independent political societies. In the second, the controversy between John XXII and Lewis the Bavarian some twenty-five years

later, the opposition to papal sovereignty crystallized. William of Occam, speaking for the intransigent spiritual Franciscans, marshalled against it all the latent elements of opposition in the Christian tradition itself, and Marsilio of Padua developed the self-sufficiency of the civil community into a form of virtual secularism and Erastianism. In the course of this controversy the process of limiting and driving back the spiritual power to purely other-worldly functions was carried as far as it could go, while the church as an institution remained intact. In the third controversy, this time in the church itself, the opposition to papal absolutism took a new form: no longer an issue between spiritual and secular authority, it became the first instance in which the subjects of an absolute sovereign tried to force on him, as a measure of reform, the limitations of constitutional and representative government. In the church this effort by the conciliar party was, to be sure, a failure, but it developed the main lines of political theory upon which similar controversies, between secular rulers and their subjects, would be waged.

THE PUBLICISTS

In the controversy between Boniface VIII and Philip the Fair, the debate on both sides, for the papacy and for the king, was conducted on a significantly higher level of precision in respect to the issues than any part of the earlier controversy. All the old arguments, to be sure, reappeared, and were canvassed afresh. The same passages of Scripture were re-analysed; the same historical precedents were re-examined; the same landmarks, such as the Donation of Constantine and the translation of the empire, were reinterpreted. Superficially it might seem as if nothing were changed, but in reality political theory had turned over a new page. In the first place, the theory of papal imperialism reached a definite systematic conclusion in which the argument for the sovereign power of the pope over all forms of secular authority was accurately stated. The older Gelasian theory of the two powers was not expressly abandoned, but it was explained away or reinterpreted out of all semblance to its older meaning. It is significant that this systematic statement of the theory of a papal empire was exactly coincident with its disastrous failure as a practical policy. The effort of Boniface to revive policies successfully pursued by Innocent III a century earlier not only proved their impracticability but ended in the disgrace of the 'Babylonish captivity,' which made the papacy for three-quarters of a century a tool of the French monarchy. This failure showed the appearance in European politics of a new force of national sentiment, but it had also a theoretical importance. It produced the conception of the kingdom as a political power not dependent upon the tradition of the empire. Instead of two world-wide jurisdictions, the *sacerdotium* and the *imperium*, the issue was between the

independent king of France as one power and the papacy as another.

The controversy produced a large mass of controversial and occasional literature.[1] Particularly in the works written in defence of Philip, this literature had a tone very different from that of the earlier controversy between the pope and the emperor. It would be misleading to say that the writers were less interested in theological arguments, but certainly many of them have a more definitely secular interest; perhaps it would not be extreme to speak of a middle-class point of view in much of it. Most of the king's defenders were lawyers, men professionally trained and professionally employed in the royal courts or the royal council, prepared to bring the resources of the Roman law to the aid of the hereditary monarchy. It is natural that their writings speak with the voice of political realism and show a concern for the problems of administration. The relations of government to trade, to the coinage, to secular education, to judicial procedure, and to colonies, all come in for consideration. A new type in European intellectual life, the educated and professionally trained layman, has definitely made its appearance. No political literature produced earlier in the Middle Ages had been equally critical or equally free from the shackles of authority.

This quality, which was typical of much of the writing on the royalist side of the controversy, will here be indicated by a single example. For this purpose the interesting figure of Pierre Dubois may be chosen. If he was not precisely a political theorist, he was at least one of the greatest medieval pamphleteers. A lawyer by profession,[2] he wrote overtly to offer a plan for renewing the crusades, though it is hard to believe that he took this part of his projects very seriously. His plan was that France should step into the international position assigned by medieval thought to the empire and left vacant by its weakness. Substantially the proposal was a European alliance for the abolition of war, with France at its head, and having a representative council and a standing court .to adjudicate disputes between the allied powers. To this end he desired a drastic reform of the church, including the abolition of clerical celibacy, the transference of ecclesiastical jurisdiction to the king's courts, and the surrender of the papal territory in return for an annual pension. Dubois suggested, also, the complete

[1] There is no collection corresponding to the *Libelli de lite*, but the whole literature is analysed by R. Scholz in *Die Publizistik zur Zeit Philipps des Schönen und Bonifaz' VIII* (Stuttgart, 1903). This is the authoritative work on the subject. Much of the literature is summarized by Carlyle, *op. cit.*, Vol. V (London, 1928), Part II, ch. viii–x.

[2] He was the author of many pamphlets, the best-known of which is his *De recuperatione terre sancte*, written *c.* 1306; edited by Ch. V. Langlois, Paris, 1891. The first part only, addressed to the King of England, was published, but the book was certainly intended for Philip the Fair, and the second part included a grandiose plan for extending French influence over practically all Europe and the Near East. See Scholz, *op. cit.*, pp. 375 ff.

reorganizing, and to a large extent the secularizing, of education, with provision for the instruction of women, and with the inclusion in the curriculum of Greek, Hebrew, Arabic, and modern languages; law, medicine, and the sciences; as well as philosophy and theology. There could be no better sign of the place the universities had assumed in the intellectual life of Europe. Finally, he sketched a thoroughgoing plan for the internal reform of France, including a reorganization of the army, an improvement of the courts to make the administration of justice speedier, cheaper, and more equal, the standardizing of the coinage, and the fostering of trade. The plan was grandiose, and as a whole utopian, but parts of it had already been discussed, and where Dubois was at home, as in his proposal to reform the judiciary, it was far from doctrinaire.

THE RELATIVE POSITION OF THE TWO PARTIES

The nature of the issue between Philip and Boniface had much to do with developing the theories advanced on either side. The most important questions arose from Philip's efforts to raise money by imposing taxes on the French clergy, an attempt met by the Bull *Clericis laicos* in 1296, in which Boniface declared such taxation to be illegal and forbade the clergy to pay without papal permission. From this position he was forced to recede a few years later because he discovered, to his surprise, that even the French clergy would stand with the French king on a question which, in modern terminology, would be called national. So far as practical politics is concerned the quarrel was notable because of the failure of the traditional tactics on which papal power in the past had rested: it proved impossible for Boniface to coerce the king by inciting factional disturbances among the feudal nobility. Obviously a new force of political cohesion was at work. On the other hand, the taxation of ecclesiastical property was a matter of life and death for the monarchy. If Boniface had made good what seemed to be the literal meaning of *Clericis laicos*, no monarchy in Europe could have existed except on sufferance of the pope. Even feudal monarchy could not have survived if all the land held by churchmen had been exempt from feudal rents. Moreover, the king would have been prevented from pursuing the only policy by which feudal kings could become strong, that of drawing business into the royal courts and of placing administration in the hands of officers dependent upon themselves. The outstanding success of Philip's reign was the organization of the great French law-court, the Parlement of Paris.

The fact that the issue concerned the rights of ecclesiastical property obliged the defenders of the pope to take a much more advanced position relative to the papal powers than had been the case previously. The investiture struggle really had involved the independence of the

church in spiritual matters, but it could hardly be held that this independence made it necessary that the property of churchmen should be free from all civic obligations. The question inevitably arose whether the papal claim on behalf of property was not contrary to the profession of clerical poverty which Christianity had always made. In any event the issue made it practically necessary to draw a more exact line between spirituals and temporals, and this involved a more searching inquiry into the nature of both powers. Property as such was certainly to be counted among temporals, though it was impracticable for the church to do its work without property in some form. If this implied that the spiritual power extended to everything that might be a means to spiritual ends, then the church must be the court of last resort even in temporals. On the other hand, if spirituals were limited to functions for which no material means were required, then there could be very little point in describing the spiritual as a power, whatever dignity or worth might be abstractly imputed to it. There were, therefore, two directions in which theory could go. The papal theory was forced logically towards the claim of an ultimate power of supervision and direction in which the church and its courts, without superseding secular government, became the powers of last resort in any issue which it was worth while to dispute. The royalist theory was forced to hedge in and limit the spiritual power as much as possible, restricting it to questions of conscience and making it dependent on the secular arm for coercive power.

In the French controversy the tactical positions of the two contestants were reversed: the ecclesiastical and not the secular power was on the defensive. For this reason it was not only the authority of the king that was on trial but equally the papal power itself. The extent of the pope's power in the church, the possibility of supporting a charge of heresy against him, his control of ecclesiastical property, his authority in doctrinal questions—in short, the whole question of church government and of the pope's part in it—were subjected to searching criticism. The opening up of this question was of the greatest importance in the progress of the discussion. During the century that followed, the subjection of the papacy to the influence of France and the scandal of the Great Schism, which was a direct consequence, made the question of government in the church the most interesting and important subject of political debate in Europe. Not only was the nature of spiritual authority analysed, but in the long run the opposition to the papacy as the supreme power of the church was developed and spread broadcast, with consequences that were made fully apparent in the Protestant Reformation. Moreover, the question of absolute as against representative power in the church had important oblique influences when the same issue came to be discussed in states.

The number of books which appeared on either side was large.

Barely to mention them would be unprofitable and to describe them all would be impossible. The best plan seems to be to state in general the positions taken by the papalists on the one side and by the defenders of the secular power on the other, emphasizing in each case the newer factors which were appearing in the argument. But in order to give a clearer idea of the manner in which the case was presented, it will be well to choose a representative writer from each side for fuller treatment. For this purpose the choice on the papal side is obvious: the book on the *Power of the Church* by Egidius Colonna (Giles of Rome) was probably the strongest statement of papal imperialism produced at any time. On the side of the king the book which probably, in the long run, carried the greatest weight was that of the Dominican John of Paris. In this chapter, then, the theory of the papal power will first be described, and especially the case as presented by Egidius; and second, the theory of the anti-papalists, with a more extended account of the argument by John of Paris.

THE PAPAL CLAIMS

The position which Boniface attempted to make good against the kingdom of France and the policy which he undertook to follow were derivative from the course previously taken by the great popes of the thirteenth century, especially Innocent III and Innocent IV, and from the theory of the papal power already developed by the canonists, of whom Innocent IV himself was not the least.[1] The difference between this theory and that held by Gregory VII lay not so much in a claim to greater power. Perhaps it would have been difficult to formulate a more august conception of the papal office than that held by Gregory. The difference is essentially legal; it consists in a greater precision in the conception of the pope's authority, resulting from a thorough exploration of the relations between the pope and his subordinates in the church and between the spiritual and temporal powers. Broadly speaking the difference is between a general but somewhat vague claim to spiritual superiority, with a right of moral discipline and a systematic theory of jurisdictional rights and powers. The writings of Thomas show that the importance of this advance was largely unperceived by students of political philosophy in the thirteenth century. The controversy of Boniface with France shows that it was very accurately perceived by lawyers and publicists at the end of the century. The revival of legal studies, both in Roman and ecclesiastical law, renewed the elements of legalism which had always been an important part of the Roman heritage and confirmed it as a permanent part of political thought.

[1] These are treated at length by Carlyle, *op. cit.*, Vol. V (1928): for Innocent III, see Part II, ch. i, ii; for Innocent IV, *ibid.*, ch. v; see also Vol. II, Part II.

The formidable list of powers which the canon lawyers had come to claim, and which greater popes like Innocent III had exercised, did not overtly carry with it a rejection of the ancient distinction between the two powers, or even the denial that the two were distinct in purpose and in their exercise. They clearly implied, however, that the supposed independence and separation of *sacerdotium* and *imperium* was in process of being explained away. It was this process of explaining away that reached its culmination in the controversy with France. In respect to imperial elections, Innocent III had claimed in his famous Bull *Venerabilem* (1202) the right to pass upon the fitness of the elected candidate and also to review disputed or irregular elections. In his dealings with other rulers he had sought to establish papal jurisdiction in special questions or over special classes of persons. Thus he had claimed the power to confirm and adjudicate treaties and agreements between rulers, on the theory that the church has special jurisdiction over oaths; in effect, this amounted to a general guardianship over war and peace, and the right to oblige contesting parties to submit to arbitration. He had claimed also a special guardianship over widows and minors, and special powers for the suppression of heresy, including the right to confiscate heretics' property, to exclude them from office, and to discipline rulers who failed to enforce the church's authority in such matters. He had sought, also, to set up a general right of supervision over the administration of justice, including the privilege of taking cases into his own courts where the secular courts had permitted a miscarriage of justice. Obviously, in such cases the pope himself, or the ecclesiastical courts, must necessarily have the last word in deciding where jurisdiction lay. Doubtless Innocent intended that the secular authorities should retain their powers and should continue to function in the great majority of cases; he did not assert that his power superseded that of temporal rulers or even that they derived their power from him. But he conceived the papacy as having a general power of review which could be extended at need to practically any sort of question, the ecclesiastical authority itself being the judge of the need.

The essence of the theory was that it claimed for the papacy a unique power, both in the church itself and in the relations of the church to secular powers, superior and different in kind from that exercised by any other authority. The pope had *plenitudo potestatis*, an expression hard to render except with the word sovereignty. This theory was stated with great precision by Innocent IV. He took the papal power quite out of the categories of feudal dependence by asserting that the right to intervene or to supersede a negligent king was in no way dependent upon the king's being a vassal of the pope; it depended solely on the pope's *plenitudo potestatis*, "which he has because he is the vicar of Christ." Such a power is a peculiar consequence of the Christian dispensation:

> Jesus Christ himself made Peter and Peter's successors his vicars when he gave them the keys of the heavenly kingdom and said, "Feed my sheep." Though there are many offices and governments in the world, there can always be an appeal to the pope when necessary, whether the need arises from the law, because the judge is uncertain what decision he ought legally to give, or from fact, because there is no higher judge, or because inferior judges cannot execute their judgments, or are not willing to do justice as they ought.[1]

This unique power possessed by the pope alone is, therefore, in a special sense a 'divine right'; it confers a peculiar superiority, a power of revision and supervision over all the other forms of authority, whether ecclesiastical or secular. In this sense all power, both temporal and spiritual, resides in the church and is vested in the pope. In substance the theory amounts to a claim of universal sovereignty which makes the pope the head of the entire legal system, not, indeed, as a universal executive, but as a court of final authority and as the fountain-head of legal power.

The papal writers in the controversy with France had behind them the actual exercise of power by Innocent III and the theory of papal power formulated by Innocent IV and other canonists. The papal position was stated by Boniface himself in the Bull *Unam sanctam* in 1302, which took the most advanced ground on papal imperialism that was ever written into an official document.[2] The Bull asserted two main principles essential to the papal position: first, the pope is supreme in the church and subjection to him is a doctrine necessary to salvation, and second, both swords belong to the church. The distinction of function between them is still admitted; the temporal sword is not to be actually used by the clergy, but it is to be used by kings "at the command and with the permission of priests." For the spiritual power is the higher, and it is a general law of nature that order requires the subjection of the lower to the higher. Hence earthly authority is set up and judged by spiritual, while spiritual authority is judged only by God. The authority of the church flows from the fact that the pope is the successor of Peter and the vicar of Christ. The Bull was little more than a sweeping statement in general terms of what had been asserted in detail by Innocent IV.

EGIDIUS COLONNA

As was said above, the most thoroughgoing presentation of the argument for papal imperialism was contained in the *De ecclesiastica*

[1] Quoted by Carlyle, *op. cit.*, Vol. V, p. 323, n. 1.

[2] The writings of Boniface are published in *Les registres de Boniface VIII*, Bibliothèque des Écoles Françaises d'Athènes et de Rome, 2e série. An English translation of *Clericis laicos* and *Unam sanctam* is given in E. F. Henderson's *Select Historical Documents of the Middle Ages* (1892), pp. 432 ff.

potestate, which was written about the year 1302 by Egidius Colonna.[1] The book claimed to present the papal case not as a legal argument but from the point of view of a philosophy uniting the newer Aristotelianism with the older Augustinian tradition which made the state, under a Christian dispensation, necessarily Christian. Indeed, Egidius showed in his earlier work what Professor Carlyle calls a "curious and somewhat laughable contempt for the lawyers,"[2] which makes only the more striking the dependence of his theory upon the legalism which had now become an essential part of the papal position. The book is decidedly repetitious and somewhat lacking in formal organization, but its principles are perfectly clear. The case is presented in three main divisions: the general argument for papal sovereignty, or *plenitudo potestatis*; the deductions from this principle relative to property and government; and answers to objections, especially those based on the decretals of the popes themselves.

The similarity between the argument in the first part and the Bull *Unam sanctam* is very close, extending even to forms of expression; since the book was probably written first, the intimacy between Boniface and its author must have been considerable. The spiritual power vested in the pope, Egidius argues, is unique and supreme. This authority is inherent in the office, and is, therefore, not dependent upon the personal qualities of the man who holds it. Spiritual authority has the power to set up temporal authority and judge it. All the older arguments, such as the Donation of Constantine, the translation of the empire, and the Scriptural texts and historical precedents, reappear in Egidius, but they do not form the kernel of his argument. This depends upon the intrinsic superiority of the spiritual and upon the argument that the higher everywhere governs and controls the lower by a law of nature. For order in nature depends upon such subordination, and it cannot be supposed that there is less order in a Christian society than in nature generally.

> As in the universe itself corporeal substance is ruled by spiritual—for the heavens themselves, which are the highest among corporeal beings and have control over all bodies, are ruled by spiritual substances as moving intelligences—so among Christians all temporal lords and all earthly power ought to be governed and ruled by spiritual and ecclesiastical authority, and especially by the pope, who holds the summit and the highest rank among spiritual powers and in the church.[3]

The argument as Egidius develops it appears to be a conflation of St Augustine with the Aristotelian doctrine of form and matter.

[1] The book was unprinted until the edition by G. Boffito and G. U. Oxilia (Florence, 1908). There is now a better edition by R. Scholz, *Aegidius Romanus, De ecclesiastica potestate* (Weimar, 1929). Egidius was the author also of a popular textbook on government, *De regimine principum*, written in 1285 for Philip the Fair, whose tutor he was. This was frequently printed in early modern times and an old French version, entitled *Li livres du gouvernement des rois*, was edited by S. P. Molenaer (New York, 1899).

[2] *Op. cit.*, Vol. V, p. 71.

[3] I, 5; ed. by Scholz, p. 17.

The second part of the treatise, in which the author applied his philosophy specifically to the questions in hand, sets forth his essential conclusions. The argument turns upon the conception of *dominium*, which includes the ownership and use of property and also political authority. Now *dominium* is a means, and the authority of Aristotle is quoted to prove that the value and legitimacy of a means depend upon the end it serves. The ownership of goods and the possession of political power are only good when they serve human ends, and human ends are, in their highest form, spiritual ends. Unless a man subordinates his power and his property to spiritual ends, such things are not good for him, for they lead not to salvation but to the damnation of his soul. But the church is the sole avenue of salvation, and from this it follows that all *dominium* requires the sanctification of the church in order to be just and lawful. It is an error to suppose that the inheritance of *dominium* is justified by carnal generation only; it is justified far more by the spiritual regeneration which comes through the church. There is no lawful ownership or use of property and no lawful exercise of civil authority unless he who has it is subject to God, and he cannot be subject to God unless he is subject to the church.

> It follows, therefore, that you ought to admit that you have your inheritance, and all your property, and all your possessions, rather from the Church and through the Church and because you are a son of the Church, than from your father after the flesh and through him and because you are his son.[1]

Baptism and penitence for sin can alone make a man worthy to possess goods and power, and an infidel can have no just claim to either, for his possession is mere usurpation. Excommunication annuls laws, contracts, property-rights, and marriage, in short, the whole legal machinery on which society depends. Despite Aristotelian terminology the conclusion was a tremendous generalization from Augustine's argument[2] that a just state must necessarily be Christian, and in its application it was much less enlightened than Thomas's opinion that infidelity is no bar to the exercise of political power. In fact, Egidius's use of Aristotelianism was superficial, a mere argument in the prevailing academic mode, with no such appreciation of the moral claims of secular government as Thomas showed. In substance his book harked back to the theocratic tradition which antedated both the revival of legal studies and the rediscovery of Aristotle.

The remainder of Egidius's book was mainly devoted to explaining away the intrinsic opposition between his own theory of universal papal sovereignty and the many admissions, in the decretals and elsewhere, regarding the independence of the two powers. He protests that he does not mean to deny that they are distinct or that in general they should be kept so in their exercise. The rights of the temporal power are not taken away but confirmed, for the church has no desire that

[1] II, 7; ed. by Scholz, p. 75.

[2] *City of God*, 19, 21.

the powers should be confounded. It does not supersede the temporal power but intervenes only for adequate cause and to preserve spiritual values. But his protestations are less impressive than the enormous list of special cases in which he justifies papal intervention. The spiritual authority can intervene in any case where temporal goods or power are put to a use that involves mortal sin. This power, as Egidius remarks a little naïvely, is "so broad and ample that it includes all temporal cases whatsoever." Moreover, the church has a special jurisdiction in maintaining peace between rulers and in securing the observance of treaties, and it can intervene where rulers show negligence or where the civil law is ambiguous or insufficient. The whole list purports to enumerate special powers rather than powers to be ordinarily exercised, but clearly the pope is competent to take jurisdiction in any case at his own discretion. It is true that he ought not to act arbitrarily; he ought not to be 'without a bridle,' but he must be trusted to bridle himself with the law.

Egidius concluded his book with a few chapters in which he tried to explain a little more definitely what is meant by the *plenitudo potestatis* attributed to the pope. This sovereignty he defines as independent or self-motivating power; an agent has it "when he can do without a co-operating cause anything that he can do with one." Egidius, in fact, knows only two such powers, God and the pope. The supremacy of the pope in spiritual matters is absolute under God. Substantially he *is* the church, in the sense that he can neither be removed nor held responsible and has ultimate authority over ecclesiastical law and over the rest of the hierarchy. Thus Egidius asserts that he has full power to create bishops and could do so without any of the customary forms of election, though he is under obligation to retain the forms of law. The argument, it will be observed, is substantially similar to that used in the sixteenth century to support monarchy by divine right; the divine right of a king is a replica, *mutatis mutandis*, of the divine right of the pope. But Egidius regards *plenitudo potestatis* as a property peculiar to papal authority. When he wrote, the argument could not have been applied to a secular ruler who was in no sense the successor of St Peter. But where the purpose was to defend the independence of kings from clerical interference, always an important part of the royalist argument, the claim for the secular power had to advance parallel to that for the pope. The divine right of kings was, as John Neville Figgis held, an anomalous, but intelligible, use of theology to detach secular institutions from theology. But it was also an instrument ready to the hand of royalists when the political controversy was between kings and their subjects.

ROMAN LAW AND ROYAL POWER

In the system advanced by Egidius, papal imperialism has reached its fullest form. The word imperialism may be used advisedly, for though the theory still depended upon the claim of the church to a power of spiritual discipline, its developed form depended also upon the position ascribed to the emperor in Roman law. There was truth in Hobbes's malicious description of the papacy as "the ghost of the deceased Roman Empire sitting crowned upon the grave thereof." Papal sovereignty, as the sole principle upon which *dominium* can lawfully rest, has become the arbiter of private and public rights everywhere. The Gelasian theory of the two independent powers has become merely a tradition to which conventional respect must be given but which effectively means little or nothing. Assuming that spiritual authority was to be clothed in legal powers, no other conclusion could follow from the development of the forces which Gregory VII had set in motion. The alternative was to deny that a spiritual force needs, or can have, a legal structure. The spiritual must be restricted so far as possible to the duty of moral and religious instruction, with the result in the end that civil government on its side becomes purely a secular institution. The beginnings of this process also can be traced to the French controversy at the opening of the fourteenth century.

Roman law, with its conception of legal authority centralized in the emperor, was no less important for the argument in behalf of the king of France than for that in behalf of the pope. In the thirteenth century there appeared the conception, wholly novel so far as the earlier medieval tradition is concerned, that law is dependent upon the enactment of the prince, and this was almost certainly due to the study of Roman law.[1] The theory of the lawyers was, of course, that of the *Digest*: the emperor's will has the force of law, though he derives this power from the act of the people which invests him with it. In the thirteenth century there was a difference of opinion among lawyers on the question whether this act had wholly divested the people of the power to make law, some holding that it had, and others that a residual authority remained with the Roman people. In any event, however, the conception had gained a footing among certain jurists that law requires enactment and expresses the will of a chief magistrate, and this imported a new element into a situation where law had been regarded as the custom of a people. It brought with it also a distinction between governments in which law comes from the people and those in which it comes from a king, roughly the distinction between constitutional and absolute governments.

The power which Roman law imputed to the emperor, however, was an anachronism so far as the empire of the thirteenth century was

[1] Carlyle, *op. cit.*, Vol. V, Part I, ch. vi.

concerned, and the letter of the law had no application to kings and other actually independent powers. A long process of interpretation was required to detach the law from its literal reference to the emperor, so that any ruler who was *de facto* independent could figure as a *princeps* within the meaning of the law.[1] This step was essential in forming the conception both of an independent political power, invested with the imperial attribute of sovereignty, and of a power mainly secular and legal in its nature. The formation of the latter idea required much time and its completion belonged to the history rather of modern than of medieval states, but the controversy between the French king and the pope at the beginning of the fourteenth century had a critical part in settling the national sovereignty of the French monarchy. Even the French clergy stood by the king in asserting the independence of France both from the papacy and the empire. The legal formula which emerged, about the middle of the fourteenth century, was that the king has the same power in his kingdom that the emperor has in the empire. *Rex in regno suo est imperator regni sui.*[2] Philip required his sons to take an oath that they would never acknowledge a superior under God.

If the royalist literature be taken as a whole, the influence of legal studies upon the argument is obvious. Distinctions which had been vague are by way of being given greater precision. This is true particularly of the fundamental distinction between spirituals and temporals, which the lawyers attacked as essentially a problem of defining the limits of two jurisdictions. Certain classes of cases are allocated to the ecclesiastical courts; others belong wholly to the secular courts; while there are still others in which both jurisdictions have an interest. The clarifying of this legal question tended also to make clearer the distinction between legal questions, in which the coercive power of the king could be invoked, and moral questions, which belong to the teaching of the church. On the whole the tendency, on the side of the royalist lawyers, was to define the spiritual authority as ethical or religious instruction, and hence to divest it of coercive force, except as this was applied from the side of the secular power. In other words, the tendency is in a direction which culminated a generation later in Marsilio's conclusion that spiritual authority is merely the right to teach. This more limited conception of spiritual authority had an important application to the claims of papal absolutism within the church, because all priests, or at least all bishops, could properly be regarded as equal in respect to the performance of purely spiritual duties, and the power of the hierarchy could therefore be conceived as merely a convenient administrative arrangement. The importance of property in the controversy tended

[1] The historical process is discussed by Cecil N. Sidney Woolf in his *Bartolus of Sassoferrato* (Cambridge, 1913); especially ch. iii.

[2] On the origin of this dictum see Woolf, *op. cit.*, pp. 370 ff.

to a similar result. From the point of view of the church's spiritual duties, the control of property was only a means, and as the distinction between spirituals and temporals was sharpened, it was natural that the control of property as such, even though it were devoted to ecclesiastical purposes, should fall within the province of the king. At the same time this analysis of property tended to clarify the distinction between a public right to control or tax property and the private right of ownership.

JOHN OF PARIS

Of the many works written in defence of the king probably none was more characteristic or historically more important than the *De potestate regia et papali* (1302–3) of John of Paris.[1] The book is the more significant because its author was a Dominican; but he was also a Frenchman. John hardly undertook to present a systematic political philosophy; his book is more notable for its details than for its general structure, and though couched in general terms, it was written definitely with the events of the preceding half-dozen years in mind. At the same time, the Aristotelianism which he shared with St Thomas was an important factor in determining his point of view, and set him off quite clearly from the mock Aristotelianism of Egidius. For one thing, John felt no need, as a lawyer would do, to attach special pre-eminence to the empire. He argues in his opening chapters that the church requires universality but that political authority does not. Civil society arises by a natural instinct and men are diverse in their inclinations, and interests. The natural political division is the province or kingdom, and there is no need that these should be subordinated to a single head. It is true that he sometimes attributes to the emperor a somewhat shadowy universal authority, but he is perfectly definite in asserting the independence of France. The self-sufficing community which he adopts from Aristotle is, for him, the kingdom, and he sees no difficulty in admitting as many such autonomous units as there actually are. In the second place, and perhaps most important, John's Aristotelianism enables him to refute the view of Egidius, that secular power requires the sanctification of the church in order to be legitimate. Secular power is older in time than true priesthood, and not derivative from it. Moreover, it is false to regard secular power as corporeal only in its nature. He adopts from Aristotle, as St Thomas had done, the view that civil government is necessary in itself to a good life and is, therefore, justified by its ethical benefits even apart from its sanction by Christianity. Hence it is a misuse of the Aristotelian rule that the

[1] It was printed in M. Goldast's *Monarchia sancti Romani imperii* (Hanover and Frankfort, 1612–14), Vol. II, p. 108, and in S. Schard's *De jurisdictione, autoritate, et praeeminetia imperiali, ac potestate ecclesiastica* (Basel, 1566), p. 142. There is an abstract in R. Scholz, *op. cit.*, pp. 298 ff., and in Carlyle, *op. cit.*, Vol. V, Part II, ch. x.

higher controls the lower to argue that the spiritual in all respects is higher than the temporal. He does not, of course, regard this as denying the greater intrinsic worth of spiritual authority. But he uses the naturalness of secular government to support the traditional defence of the independence of temporals.

John wrote, as he states in his preface, especially to solve the problem of ecclesiastical property and with the purpose of marking out a middle course between two opposed errors. There are those, he says, who assert that the clergy should have no property at all, and he calls these Waldensians, and there are those who argue that the spiritual power of priests gives them indirectly a control over all property and all secular power. The latter error he identifies with that of Herod, who thought that the kingdom of Christ was of this world; but his argument is obviously aimed at the extreme partisans of papal imperialism like Egidius. John's book was written against the second error, and his middle position consists in arguing that it is lawful for the clergy to have property, as a means to doing their spiritual work, but that the legal control of property vests in the secular authority. It is totally false to argue that, because property is needed for spiritual purposes, therefore the spiritual authority extends to an indirect control over property. With this general position John unites several interesting and important supplementary points. He denies, first, that the ownership of ecclesiastical property vests in the pope; it belongs to no individual but to the community as a corporate body, and the pope's control of it is that of an executive (*dispensator*). The pope can be held responsible for a misuse of the church's property. Second, he makes a clear distinction in the case of secular rulers between ownership, which in the case of laymen vests in individuals, and the political or public regulation of the uses of property which the ruler has as the head of a civil society. The king is to respect the rights of private property, regulating it only as public need directs.

In the same spirit of clarifying issues John deals with the distinction of spirituals and temporals. The argument still depends, as did the earlier defence of the empire against Gregory, upon the separateness of the two authorities, each derived directly from God. But John covers the whole argument systematically. He distinguishes forty-two reasons which have been assigned for the subordination of secular to spiritual authority and refutes them one by one. What is more important, he analyses the spiritual authority inherent in priests and inquires what control, if any, this implies over temporal goods and secular power. The consecration and administration of the sacraments and the right to preach and teach he finds to be purely spiritual, requiring no material means. The clerical right of judging and correcting evil doers is the main source of confusion, and here he finds that the spiritual authority extends only to excommunication, which has intrinsically no material

consequences. Coercion belongs to the secular arm. Excommunication, as applied for instance to a heretical ruler, may lead his people to refuse obedience, but this is incidental and implies no right in the spiritual power to coerce rulers. John points out that a protest by secular authorities against an abuse in the church may have similar incidental effects in bringing a pope to terms. In law, the right of a pope to depose a king is no greater than that of a king to depose a pope. Both can protest, and the protest may have weight; both may lawfully be deposed, but only by the properly constituted authority that elects them. The remaining two powers implied by the spiritual authority—that of regulating the clergy and of owning the property required for spiritual uses—imply no power over the secular authority. Coming from a churchman this precise analysis and, in effect, limitation of the church's spiritual authority is very striking.

John's general argument on the relation between the two powers is supplemented by his treatment of the relation between the pope and the king of France. This part of his case was largely historical, and because it turned upon the Donation of Constantine, involved also the relation of France to the empire. His purpose was to show that, whatever the relations between the papacy and the empire, there was no ground for holding the king of France subject to the pope. The conclusion is somewhat complicated because he seemingly set himself to pulverize the Donation. He first shows, on historical ground, that it was in any case applicable only to certain parts of Italy. He then attacked its legal validity on the ground that the emperor could not lawfully have alienated part of the empire. Next, he argued that, even if these points were waived, it could not have applied to France, because the Franks had never been subject to the empire. And finally, even if they had been, they might well have gained their independence by prescription. There could hardly be a greater contrast than between John's treatment of the empire and Dante's fanciful idealization of it. It was always, he says, filled with disorder and corruption; it had usurped its power from earlier peoples; why, then, should not later peoples make good a claim to independence against it? For Frenchmen at least, the empire had ceased to possess a mythical charm.[1]

The concluding chapters of John's book deal with the powers of the pope from another angle. By implication what he does, though not in set terms, is to deny completely the papal claim to a unique type of authority, a *plenitudo potestatis*, in the church. The primacy of the pope he treated as mainly a matter of administrative organization, since in spiritual authority all bishops are equal. The papal office, to be sure, is unique and is from God, but the choice of an incumbent requires human co-operation. This formed the weakest point in

[1] Cf. the plans for reconstructing the empire after the fall of the Hohenstaufen discussed by C. N. S. Woolf, *op. cit.*, pp. 209 ff.

Egidius's argument, for seemingly in the interval when a papal election was taking place, the papal power must reside somewhere, and there seemed no good reason why, if a pope could be invested with it, he might not also be divested of it by some legal process. John argues accordingly that a pope may resign and also may be deposed for incorrigible misconduct. Following the line already marked out by his treatment of ecclesiastical property, he regards the spiritual authority as residing in the church itself as a corporation. He has no doubt whatever that a General Council can depose a pope, and he states it as his own opinion that the College of Cardinals can lawfully do it. It is evident that he conceives the College as standing in the same relation to the pope as the feudal parliaments of the estates to the king.

> Certainly it would be the best government for the church if, under one pope, representatives were chosen by and from each province, so that in the government of the church all should have their share.[1]

Accordingly he justifies resistance to the pope on the same general principles that many medieval writers used to justify resistance to a king. It is true that no legal process will run against the pope, but if he causes rebellion and cannot be persuaded to stop,

> I think that in this case the church ought to be moved to act against the pope; the prince may repel the violence of the papal sword with his own sword, within measure, and in so doing he would not be acting against the pope but against his enemy and the enemy of society.[2]

These passages show how repugnant, even to churchmen, the claim of papal sovereignty was. They point very clearly to the effort, abortive to be sure, which the Great Schism produced to constitutionalize the government of the church on the lines of a medieval system of representation.

John has little to say, except incidentally, about the organization of the secular state. In general, it is clear that he envisages government under the form of the medieval constitutional monarchy. Thus he denies that the pope deposed the Merovingians and put Pippin in their place; Pippin was chosen "by election of the barons." In all temporal matters it is the barons who check or discipline the king. Here again John brings Aristotle to his aid by identifying constitutional monarchy with the polity, which is a mixture of democracy and aristocracy. It was, of course, the fact that medieval constitutionalism was taking form everywhere at the time when John wrote. The first meeting of the States General was held in France in 1302; and similar representative bodies composed of the estates of the realm had been held in the course of the thirteenth century in England, Italy, Germany, and Spain. The political views represented by John were, therefore, characteristic of his age, much more characteristic than the tendency towards absolutism represented by Egidius or some of the civilians.

[1] C. 20; Schard (1566), p. 202b. [2] C. 23; *ibid.*, p. 215a.

Without presenting a systematic political theory, the work of John of Paris was highly significant both for its own time and for the future. A Frenchman as well as a cleric, he made a strong case on both historical and legal grounds for the independence of the French monarchy. He drew a clear distinction between the ownership of property, whether by the church or by lay individuals, and the political control of it by the king or the administration of it for the church by the pope. He restated the argument for the independence of spiritual and secular authority, supplementing it with a penetrating analysis of the nature and purposes of spiritual power. On the whole, this analysis leans towards the view that spiritual authority is not properly a legal power at all. It either does not require coercion, or if it does, this must be sought from the side of the secular arm. The moral and religious character of the spiritual is strongly stressed. Substantially his argument is a protest against the invasion of religion by law and against investing the pope with a sovereign power modelled on the legal position of the emperor. And finally he suggests, as against the absolutism of the pope, the advisability of tempering monarchy with representation. In every case these arguments had an important part in the political discussion of the future. As compared with the argument of Egidius, John's position is a striking example of the secularizing and rationalizing influence which Aristotle had already exerted, even within the limits of thought undoubtedly orthodox.

The controversy between Boniface and Philip was of great importance in the development of political theory. It produced a clear-cut claim to unique, sovereign power, vested in the pope and exercised directly in the church and indirectly as between the pope and secular rulers, and it defended this claim upon the principle of divine right. The appearance of this claim, a theological offshoot of legalism, was the signal for a concerted attack upon it. Even in the French controversy this attack began to develop on two main lines. Objection was made to papal sovereignty on the presumption that it was a case of clerical pretension, peculiar to an ecclesiastical power, and hence to be met by hedging it in to a proper moral and religious exercise. On the other hand, objection was made to sovereign power as such, on the ground that it was intrinsically tyrannous wherever it existed, and needed to be tempered and limited by representation and consent. The first of these two objections, that of hedging in the spiritual power and setting it apart from secular powers, was carried forward by William of Occam and reached almost logical completeness in Marsilio of Padua. The case for representation as an intrinsic part of all good government was first elaborately stated in the conciliar theory of church government.

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CHAPTER XV

MARSILIO OF PADUA AND WILLIAM OF OCCAM

HOSTILITY to the theory of papal sovereignty, already evidenced by the criticism of John of Paris, was enhanced by the failure of Boniface's grandiose claims in France and more particularly by the seventy-five years' residence of the popes at Avignon under the influence of the French monarchy. For if secular rulers had little wish to be subjects of the Church of Rome, they were still less willing to be subjects of what William of Occam derisively called the Church of Avignon. The "Babylonish Captivity" gave great offence to those who were not of French nationality. Even in the *Divine Comedy* Dante paid his respects to the French popes, "ravening wolves in garb of shepherds," and Petrarch with his invective blackened their characters much beyond their deserts. Quite apart from its implication of clerical interference in secular affairs, also, the Petrine theory of the papacy was deeply repugnant to many loyal Catholics because it violated their convictions about spiritual freedom within the church. Finally, the question of ecclesiastical property involved the pope, early in the fourteenth century, in a violent controversy with an influential part of the Franciscan Order on the subject of clerical poverty.[1] All these facts conspired, therefore, to make the nature of spiritual power, and especially the relation of papal absolutism to it, the chief subject of political theory.

The immediate occasion of the next controversy between the pope and a secular ruler was the attempt of John XXII to intervene from Avignon in a disputed imperial election. The quarrel which thus began in 1323 continued through the pontificates of John XXII and Clement VI and was not settled until after the death of Lewis the Bavarian in 1347. It produced another large body of occasional literature[2] and two figures of lasting importance in the history of political

[1] Following what they believed to be the principles of St Francis, a considerable part of the Order held that renunciation of property beyond the bare needs of subsistence was necessary to the proper performance of spiritual offices. John XXII declared the position heretical, deposed and excommunicated the General of the Order, and altered its rules. Three chief figures in this controversy—Michael of Cesena, Bonagratia of Bergamo, and William of Occam—became supporters of the emperor.

[2] A list comprising sixty titles is given by R. Scholz, *Unbekannte kirchenpolitischen Streitschriften aus der Zeit Ludwigs des Bayern (1237–54)*, *Bibliothek des Kgl. preussischen historischen Instituts in Rom*, Vol. X (1914), pp. 576 ff.

philosophy, Marsilio of Padua and William of Occam. The outcome was another repudiation of the papacy's effort to set itself up as an international arbitral power. In 1338 the Imperial Electors, acting for the first time as a corporation in a capacity not purely electoral, asserted in the Declaration of Rense that an election required no papal confirmation, thus embodying in constitutional law the independence which the emperors since Henry IV had claimed. The Golden Bull, which in 1356 enacted a procedure for imperial elections, omitted all reference to confirmation by the pope, and Innocent VI had no alternative but to concede the point. The powers which Innocent III had claimed in his Bull *Venerabilem* were thus finally lost. The political forces which brought about this result were substantially similar to those that defeated Boniface in his quarrel with the king of France. A rudimentary sentiment of German nationality prevented the pope from finding support among disaffected vassals of the emperor. In Germany the dependence of the pope upon the king of France was bitter even to his defenders, and the desire for reforms in the church was by no means confined to the imperial party.

On the whole, however, the national aspects of the quarrel were less obvious than in the earlier French quarrel, and while systematic writing about German constitutional law is sometimes dated from this period,[1] the most generally interesting point did not arise, because the legal standing of a kingdom, not subject to the empire, was not involved. Of the two most important writers in the emperor's cause, one was by birth an Italian and the other an Englishman, men who owed their training respectively to the Universities of Padua and Oxford, and neither of whom had any real concern for Germany or for the tradition of the empire. For these writers the overt issue—settled by establishing the independence of the Imperial Electors—was almost incidental. Their argument on the principles of political authority had no special application to Germany whatever. Its application was far more to the government of the church and to the Petrine theory of papal power. Already an issue in the work of John of Paris, this problem of papal government and of ecclesiastical reform became the chief question a half-century later.

The controversy between John XXII and Lewis the Bavarian permanently changed the centre of political discussion. In its course the independence of the temporal from the spiritual authority was settled, except as this question might arise as an incident of national politics in connection with other issues, and the question of absolute monarchy as against representative or constitutional monarchy was definitely raised. The problem was shifted to the relation between a sovereign and the corporate body which he ruled. It is true that this issue concerned as yet only the pope and the subjects of a sovereign

[1] See C. H. McIlwain, *op. cit.*, pp 288 ff., with references there given.

power claimed as a special attribute of spiritual authority, and it is also true that as a practical movement the attempt to constitutionalize the church failed. But so far as the theory of political authority is concerned, this was not so important as the fact that the centre of discussion was changed. Moreover, the failure to reform the church by constitutional means was historically connected with the revolutionary attack upon it in the sixteenth century.

Because the results of the debate were of this sort, the writings of the papal party may be neglected. They dealt largely with the right of the pope to confirm or annul imperial elections and therefore fought a battle already lost. In defence of the absolute power of the pope in the church, there was not much to say that had not already been said by writers like Egidius Colonna. This chapter may, therefore, be confined to the two great writers who took up the case in behalf of Lewis, Marsilio of Padua and William of Occam. Marsilio's theory is one of the most remarkable creations of medieval political thought, and showed for the first time the subversive consequences to which a completely naturalistic interpretation of Aristotle might logically lead. The theory reaches a high level of logical consistency, and includes many elements which attained their full importance only much later, but in respect to the state of affairs which existed in 1324, it is often doctrinaire. The theories of William of Occam were less systematic, probably because political questions were for him, after all, a side issue, but they were on the whole much more closely in touch with contemporary fact than Marsilio's. For this reason they were probably more influential in directing the course which political theory followed in the later fourteenth and fifteenth centuries.

MARSILIO: AVERROIST ARISTOTELIANISM

Marsilio's book, the *Defensor pacis*,[1] was addressed to Lewis the Bavarian, and after its publication Marsilio obtained protection in Germany, where he lived during the greater part of his later life, but neither Germany nor the empire is in any distinctive way related to the theory of the book. Indeed, it may well have been begun before the quarrel started between Lewis and the pope, and it might have

[1] Completed in 1324. There are two recent editions: *The Defensor Pacis of Marsilius of Padua*, edited by C. W. Previté-Orton (Cambridge, 1928), and *Marsilius von Padua Defensor Pacis*, Herausgegeben von Richard Scholz (Fontes iuris Germanici antiqui), (Hanover, 1933). About 1342 Marsilio wrote a shorter work, called *Defensor minor*, first edited by C. K. Brampton (Birmingham, 1922). The papal condemnation of the *Defensor pacis* named John of Jandun, a professor at Paris and the author of several commentaries on Aristotle from the Averroist point of view, as co-author with Marsilio. There have been numerous efforts to distinguish parts written by John, but both the recent editors (without denying that the two men collaborated) are emphatic in asserting unity of authorship, both on stylistic grounds and because of the well-knit structure of the book.

been nearly the same if that quarrel had never occurred. Mr Previté-Orton has pointed out that Marsilio's theory of secular government was based directly upon the practice and conceptions of the Italian city-states, and that his discussions of practical questions usually refer to the problems of that form of government. As a patriotic Italian his enmity for the papacy needed no more stimulus from Germany than Dante's, and as a citizen of Padua he need feel no more friendship for the empire than the interests of his city dictated. His bitterness towards the papacy as a cause of disunion in Italy suggests that of Machiavelli two centuries later.[1] He wrote not to defend the empire, but to destroy the whole system of papal imperialism that had developed in the practice of Innocent III and the theory of the canon law. His object was to define and limit in the most drastic manner the pretensions of the spiritual authority to control, either directly or indirectly, the action of secular governments, and to this end he went farther than any other medieval writer in placing the church under the power of the state. Marsilio might be not inaptly described as the first Erastian.

The philosophical basis for the theory was derived from Aristotle. Marsilio, in his introduction, evidently thought of his work as a supplement to that part of the *Politics* which discussed the causes of revolution and civil discord. For there was one cause necessarily unknown to Aristotle, he said, namely, the claims of the pope to a supreme power over rulers, and especially those of recent popes, which have filled all Europe, and more particularly Italy, with strife. It is the remedy for this cause of disorder that Marsilio proposes to seek. The Aristotelian principle which he followed most closely was that of the self-sufficing community capable of supplying both its physical and its moral needs. But he brought this to a conclusion fundamentally different from that reached by any other medieval Aristotelian, and it seems probable that this was connected with the influence of Latin Averroism, though it is not as yet known whether any of the earlier Averroists had anticipated the conclusions of the *Defensor pacis*.[2]

The essential characteristics of Latin Averroism were its thorough-

[1] See, for example, *Defensor pacis*, I, i, 2 and 3.

[2] Since John of Jandun was the chief representative of the Averroist tradition at Paris in the first quarter of the fourteenth century, there has been a tendency to trace to him passages having this tone, and indeed the part of the work dealing directly with Aristotle. But as Scholz remarks, there is no reason why Marsilio should not have been as much an Averroist as John. Besides Paris, Padua was the chief centre of Averroist teaching, and Marsilio had certainly studied there. See Scholz's edition, p. liii. The authoritative work on Latin Averroism is P. Mandonnet's *Siger de Brabant*, 2 vols., second edition (Louvain, 1911). Siger certainly lectured on the *Politics*, for Pierre Dubois heard him (*De recuperatione terre sancte*, sect. 132), but no Averroist commentaries on the work are known. The connection between Averroism and the denial of secular power to the pope is stressed by Martin Grabmann, "Studien über den Einfluss der Aristotelischen Philosophie auf die mittelalterlichen Theorien über das Verhältnis von Kirche und Staat," *Sitzungsberichte der Bayerischen Akademie der Wissenschaften*, Philosophisch-historische Abtl., 1934, Heft 2.

going naturalism and rationalism. It admitted, indeed, the absolute truth of Christian revelation, but it divorced this entirely from philosophy, and, unlike St Thomas, held that the rational conclusions of the latter might be quite contrary to the truths of faith. It was responsible, therefore, for the doctrine of a twofold truth. With this tendency the separation in the *Defensor pacis* of reason and revelation, "which we believe by pure faith without reason,"[1] is quite in accord. On the side of ethics, also, the Averroists leaned towards a secularism quite at variance with the ecclesiastical tradition, holding—again like the *Defensor pacis*—that "not all the philosophers in the world could prove immortality by demonstration,"[2] that theology contributes nothing to rational knowledge, that happiness is attained in this life without the aid of God, and that moral living according to Aristotle's *Ethics* suffices for salvation.[3] From the point of view of reason, then, and Marsilio is careful to say that this is all that concerns him, human societies are self-sufficing in the fullest sense. Religion has social consequences apart from its truth, and may therefore be regulated by society; whatever effects it has in a life to come may be left to the future. From the point of view of Marsilio's naturalistic Aristotelianism, spiritual interests are identical with other-worldly interests, and they are logically irrelevant. On the other hand, moral or religious concerns that do affect the present life all without exception fall within the control of the human community.

THE STATE

The *Defensor pacis* is divided into two main parts. The first is a statement of Aristotelian principles, though hardly a complete and systematic discussion of all phases of political philosophy. Its purpose is to supply the foundation for the second part in which Marsilio draws his conclusions regarding the church, the functions of priests, their relation to civil authority, and the evils which arise from a misunderstanding of these matters. There is also a short third part in which are stated forty-two theses or conclusions drawn from the theories developed in the first two parts.

Following Aristotle, Marsilio defines the state as a kind of "living being" composed of parts which perform the functions necessary to its life. Its 'health,' or peace, consists in the orderly working of each of its parts, and strife arises when one part does its work badly or interferes with another part. He follows also the derivation of the city from the family, the city being a 'perfect community' or one able to supply all that is needed for a good life. But the expression, 'a good life,' has

[1] I, ix, 2. [2] I, iv, 3.

[3] See Martin Grabmann, "Der lateinische Averroismus des 13. Jahrhunderts und seine Stellung zur christlichen Weltanschauung," *Sitzungsberichte der Bayerischen Akademie der Wissenschaften*, Philosophisch-historische Abtl., 1931, Heft 2.

a double meaning: it means good in this life and also in the life to come. The first is the proper study of philosophy by means of reason; knowledge of the second depends on revelation and comes only from faith. Reason shows the need for civil government as a means of peace and order, but there is a need for religion also, which has its uses in this life and is the means of salvation in the life to come. Still following Aristotle, Marsilio then enumerates the classes or parts which co-operate to form a society. There are farmers and artisans who supply material goods and the revenue needed for government; and there are soldiers, officials, and priests who make up the state in a stricter sense. The last class, the clergy, causes special difficulty and its place in society has been especially subject to differences of opinion, because of the twofold purpose of religion and because its other-worldly purpose cannot be comprehended by reason. Nevertheless, all men, Christian and heathen alike, have agreed that there must be a special class devoted to worship. The difference between the Christian clergy and the other priesthoods is simply that, as a matter of faith, Christianity is true while the other religions are not, but from the point of view of philosophy, this extra-rational truth hardly affects the matter. Thus Marsilio reaches a definition of the function of the Christian clergy:

> The function of the clergy is to know and teach those things which according to Scripture, it is necessary to believe, to do, or to avoid, in order to obtain eternal salvation and escape woe.[1]

It can hardly be denied that Marsilio does follow Aristotle pretty closely, but he arrived at a conclusion widely different from that of any other medieval Aristotelian. So far as Aristotle is concerned, he availed himself of the implicit naturalism of Greek philosophy and supplemented the *Politics*, as he intended, by bringing into the picture a religion which claimed a supernatural sanction. As compared with any other medieval Aristotelian, he has walled off Christianity as, in its essence, supernatural and beyond rational discussion. The contrast with St Thomas's tendency to harmonize reason and faith i as sharp as possible, and Marsilio has gone far beyond the tendency in John of Paris to limit spiritual powers and duties. The practical importance of Marsilio's conclusion can hardly be exaggerated. Whatever reverence faith may deserve as a means of eternal salvation, it has become from a secular point of view simply irrelevant. Being irrational it cannot be brought into a consideration of rational means and ends, which is exactly the same thing as to say that secular questions have to be decided on their own rational merits without reference to faith.

For political purposes the essential point of Marsilio's conclusion is that, in all secular relations, the clergy is merely one class in society along with all other classes. From a rational point of view he obviously

[1] I, vi, 8.

considers the Christian clergy as precisely like any other priesthood since the truth of what it teaches is beyond reason and applies only to a future life. It follows that in all temporal concerns the control of the clergy by the state is in principle exactly like the control of agriculture or trade. Stated in modern terminology, religion is a social phenomenon; it uses material agencies and produces social consequences. In these respects it is subject to social regulation at need like other human interests. As for its truth, in the sense in which it claims truth, that is a matter about which reasonable men cannot dispute. Such a separation of reason and faith is the direct ancestor of religious scepticism, and in its consequences amounts to a secularism which is both anti-Christian and anti-religious. There is, to be sure, no frontal attack on the spiritual interests which the church professes to serve and which Christians believe to be the ultimate interests of mankind. One may say, if he wishes, that such things are too sacred for reason to touch. But practically there is little difference between too sacred and too trivial. The church is a part of the secular state in every respect in which it affects temporal matters.

LAW AND THE LEGISLATOR

Marsilio next proceeds to carry forward the radical distinction of spirituals and temporals into his definition of law. In the *Defensor pacis* he distinguishes four kinds of law, though the important point is rather a twofold distinction between divine law and human law. In the *Defensor minor*, written later, he presented the argument more pointedly, though to the same effect. Law is of two sorts, either divine or human:

> Divine law is a command of God directly, without human deliberation, about voluntary acts of human beings to be done or avoided in this world but for the sake of attaining the best end, or some condition desirable for man, in the world to come.[1]
>
> Human law is a command of the whole body of citizens, or of its prevailing part, arising directly from the deliberation of those empowered to make law, about voluntary acts of human beings to be done or avoided in this world, for the sake of attaining the best end, or some condition desirable for man, in this world. I mean a command the transgression of which is enforced in this world by a penalty or punishment imposed on the transgressor.[2]

In these definitions the two kinds of law are distinguished by the kind of penalties entailed. Divine law is sanctioned by the rewards or punishments which will be meted out by God in a future life. It follows that there is no earthly penalty for its violation but only a penalty beyond the grave. Human law, therefore, is not derived from divine law, but is contrasted with it. Any rule that involves an earthly penalty belongs, *ipso facto*, to human law, and has its authority from

[1] *Defensor minor*, i, 2.

[2] *Ibid.*, i, 4.

human enactment. This is a point of vital importance for the later argument because from it results the conclusion that the spiritual teaching of priests is not properly a power or authority, since it lacks coercive force in this life, unless, of course, a human legislator delegates such a power to priests. Marsilio's definitions of law are extraordinary also, because of the weight which they give to the elements of command and sanction, the will of the legislator and his power to impose his will. He notes, indeed, that the word law is used to mean a rule of reason or of intrinsic justice, but he clearly regards law, at least in its juristic sense, as characterized by its emanating from a constituted authority and carrying a penalty for its violation. Marsilio's treatment of law is in the sharpest contrast with that of Thomas, which presented divine and human law as all of a piece, and stressed the rational derivation of human law from the law of nature.

Law then implies a legislator, and Marsilio next inquires who the human legislator is. The answer brings him to the heart of his political theory:

> The legislator, or first and proper efficient cause of law, is the people or whole body of citizens, or a prevailing part of it, commanding and deciding by its own choice or will in a general assembly and in set terms that something among the civil acts of human beings be done or omitted, on pain of a penalty or temporal punishment.[1]

Human law arises by the corporate action of a people setting up rules to govern the acts of its members, or conversely, a state is the body of men who owe obedience to a given body of law.[2] The result is the same whether law be used to define the state, or the state to define law, since either implies a corporate body competent to control the behaviour of its members. The source of legal authority is always the people or its prevailing part, even though it act in a particular case through a commission (or, in the case of the empire, through the emperor) to which it has delegated its authority. There can be little doubt that Marsilio was thinking primarily of government in a city-state, though apparently he saw no difficulty in applying his definition to any state.

In the definition just given, two expressions call for explanation. The word legislator has a deceptively modern suggestion which it could hardly have had for Marsilio. What he presumably means is that the whole people makes its law in the sense that all authority is to be conceived as the act of the people and is to be exercised in their name. Thus he expressly provides for the case in which a commission acts with derivative authority. The conception was common in city-states, as when an Athenian jury was addressed simply as 'Athenians,' and it was carried over to explain the legislative power of the Roman emperor. Also it was not very different from the medieval fiction by which the whole realm was supposed to be consulted in a parliament. Presumably

[1] *Defensor pacis*, I, xii, 3.

[2] *Defensor minor*, xii, 1.

Marsilio thought of a people's legislation as including custom, which he elsewhere names as a part of law. The other expression which might be misleading is the "prevailing part" (*pars valentior*) by which the legislator decides. This is emphatically not a numerical majority, as some commentators have imagined. For Marsilio enlarged his definition with the words, "I say the prevailing part, both their number and quality in the community being taken into account."[1] He meant literally the part which carries the greatest weight, with not the least thought that everybody should count for one. The magnates would naturally carry a greater weight than the commonalty, though numbers properly count for something. The idea is essentially Aristotelian as well as medieval.

The executive and judicial part of government (*principatus* or *pars principans*) Marsilio regards as set up or elected by the body of citizens (*legislator*). The manner of election follows the custom of each state, but in all cases the authority of the executive is derived from the legislative act of the whole body. Hence it is essential that this authority should be exercised in accordance with law and that its duties and powers should be such as the people determine. It is the duty of the executive to see that every part of the state performs its proper function for the good of the whole, and if it fails it may be removed by the same power which elected it, namely, the people. Marsilio's preference for an elective as compared with an hereditary monarchy is explicit, but even here he is thinking of city-states rather than the empire, of which he speaks rather slightingly. But above all, the executive, however it may be organized, must be unified and supreme, so that its power may exceed that of any faction, but particularly so that it may proceed as a unit in administering the law. Such unity is absolutely necessary to the state as an organized body, and without it strife and disorder are sure to result. This part of Marsilio's theory has reference to the lack of unity prevalent in medieval government, and probably especially to the difficulties arising from the twofold jurisdiction of secular and ecclesiastical courts. The unity of the state is a necessary premise for his own treatment of spiritual authority in the second part of his book.

This completes Marsilio's outline of the natural or self-sufficing political community. It is an organic whole composed of classes, including everything within itself, both physical and ethical, that is needed for its continued existence and the good life, in a secular sense, of its citizens. Its power of legislation is the inevitable right of such a corporation to regulate its own parts for the well-being of the whole. Its executive power is the agent of the corporation to put into effect

[1] The words *et qualitate* were omitted from the earlier printed editions. On the meaning of the two expressions discussed in this paragraph see McIlwain, *op. cit.*, pp. 300 ff.

whatever the unity of the state requires; and because of this unity there is no room for differences of jurisdiction or dispersion of power. From a secular point of view the community is absolutely self-sufficient and absolutely omnipotent. It is the guardian of its own life and its own civilization, in every sense in which civilization has any meaning or consequences on earth. If its citizens have a 'spiritual' well-being, this belongs in another world and another life, beyond the life of the state, indeed, but also powerless to touch that life. With this conception of human society and its government, Marsilio turns to the real purpose of his book, to consider the spiritual life as he believed it to be misconceived by the church. With it he proposes to check the incursions of the spiritual authority into the concerns of the self-sufficient community and to lay bare the greatest of all the causes of civic strife and disorder, which had been unknown to the master philosopher.

Since every official of the corporate community possesses his authority only by the mandate, mediate or immediate, of the people, it follows that the clergy, as such, have no coercive power whatever. If they are permitted to exercise such power—and when Marsilio wrote many important relationships were regulated by ecclesiastical law—they are acting as delegates of the civil power. The clergy, being themselves merely a class set apart to perform religious service, are subject to regulation like any other class, and like laymen they are amenable to the civil courts for violations of human law. Within the meaning of human law there is, strictly speaking, no such thing as a spiritual offence. Such offences are judged by God only in a future life, and the penalties are incurred beyond the grave. If spiritual offences incur an earthly penalty, and, of course, they may do so by human legislation, they become *ipso facto* offences against human law. Heresy, therefore, if it is punished in this world, is a civil offence; its spiritual penalty is damnation, but this is beyond the power of the clergy or any human judge. Similarly Marsilio argues that excommunication belongs wholly to the civil power. In short, his theory makes a clean sweep of the canon law as a distinct jurisdiction. In so far as it is really a divine law, its penalties are other-worldly; in so far as it assesses earthly penalties, it is a part of human law and so within the power of the secular community. The duty which the clergy has to perform Marsilio compares to the advice of a physician. Apart from the celebration of religious rites, the clergy can merely advise and instruct; they can admonish the wicked and point out the future consequences of sin, but they cannot compel men to do penance. No other writer in the Middle Ages went so far as Marsilio in thus setting apart the spiritual and religious from the legal.

Marsilio is equally sweeping in his destruction of the church's temporal establishment. The church can hardly be said to own property at all. Ecclesiastical property is of the nature of a grant or subsidy made by the community to support public worship. Thus a project put forward by Pierre Dubois to be accomplished by agreement between the pope and the king of France is deduced by Marsilio from his theory of the self-sufficing community. It is obvious, of course, that from Marsilio's point of view, the clergy have no right to tithes, or any right of exemption from taxation, except as it is granted by the community. Ecclesiastical office, like ecclesiastical property, is within the gift of civil officers. He holds also that the clergy can be legally compelled to perform the offices of religion, so long as they receive their benefices, and every ecclesiastical officer, from the pope down, can be deposed by civil action. It was not without reason that the ill-judged and ill-starred attack of Lewis on the church, during his Roman expedition in 1327–30, including his effort to secure the election of an anti-pope with the suffrages of a Roman mob, was attributed to Marsilio's advice and regarded as a doctrinaire attempt to put the *Defensor pacis* into practice. The notion that Marsilio's political philosophy was a defence of religious liberty is wholly fallacious. The national despots of the Reformation period, lawless as they were, rarely went to the lengths that his theory would warrant. Its upshot would be to subject religion to a thoroughgoing regimentation by civil power.

It is not quite true to say, however, that Marsilio proposed to treat the church merely as a branch of the state, for this would imply as many churches as there are states. In 1324 a national church would have seemed a strange anomaly even to a sceptic like Marsilio, to say nothing of a church for every independent city. His theory is a root-and-branch attack upon the ecclesiastical hierarchy and especially upon a papal *plenitudo potestatis*, but he recognized that, even for spiritual purposes and to resolve spiritual questions, the church requires some organization distinct from the civil community. The problem causes some difficulties, both practical and theoretical, because a universal church consorts ill with a congeries of self-sufficing communities, typically city-states, such as Marsilio envisaged. It is hard to see how the church is to be organized without an independent hierarchy and with its spiritual judgments wholly dependent upon distinct civil powers for their effect. Like many Protestants after him, Marsilio was really in a position where he ought to have remitted all religious questions to private judgment and regarded the church as a purely voluntary organization, but it is hardly surprising that he did not draw in the fourteenth century a conclusion which Protestants refused to draw in the sixteenth. He lived in a day when only the discontented were looking even as far as a General Council of the church to cure the evils which they attributed to the hierarchy.

The ecclesiastical hierarchy, from Marsilio's point of view, is obviously of human origin, and has its authority from human law. As an arrangement of earthly ranks and powers it is drawn completely within the sphere of civil control. Hence the hierarchy, or even the priesthood, is not the church. The church is composed of the whole body of Christian believers both lay and clerical. Thus Marsilio continued in some sense the Christian tradition of two organizations of the same society, though he stripped the church of its coercive power. Even the laity, Marsilio says, are churchmen (*viri ecclesiastici*), an expression which suggests Martin Luther's phrase, "the priesthood of the Christian man." But since all distinctions of rank among the clergy arise by human institution, in respect to their strictly spiritual character all priests are equal. Neither a bishop nor a pope has any spiritual quality that a simple priest does not have. The 'priestly character' which authorizes them to celebrate the rites of religion is a purely mystical stigma, proceeding directly from God or Christ, having no earthly origin and carrying with it no earthly power or ecclesiastical rank. Marsilio thus generalized an argument which John of Paris had already used to reduce the pope to spiritual equality with other bishops, and by so doing he eliminated from the spiritual all reference to ecclesiastical rank. *A fortiori* he eliminated papal sovereignty from the organization of the church. He denied absolutely that the pope has any authority as the successor of Peter, or that Peter had any pre-eminence over the other Apostles. In a rather remarkable bit of historical analysis he denied that there is any reliable evidence that Peter ever was in Rome and still less that he was bishop. The pre-eminence of the church at Rome he attributes to its situation in the capital of the empire.

With this complete rejection of the spiritual powers of the hierarchy and the pope there went also, very naturally, a low estimate of the sacerdotal aspect of religion and a tendency to treat it as if the inner experience itself were sufficient. It is hard to tell, however, whether this corresponds to a strong conviction on Marsilio's part or whether it represents merely the tendency of a rationalist to confine religion as narrowly as possible. In treating the confessional, penance, indulgence, absolution, and excommunication he stressed the view that repentance for sin and forgiveness by God are the only essentials. Without these the ceremony is powerless, and if a sinner has made his peace with God, absolution is complete without the ceremony. Similarly he showed somewhat the same enmity for the canon law as his two contemporaries, Dante and William of Occam, and as Luther after him. The Bible, or perhaps more narrowly the New Testament, he regarded as the only source of revelation and hence as the only text of divine law; papal decretals would either not be law at all or, if given the sanction of the community, would be a part of human law. Accordingly

only beliefs contained in Scripture, or clearly implied by it, are necessary to salvation. These opinions, so suggestive of later Protestant belief, show how fully the Reformation was prepared in the two preceding centuries of the Middle Ages.

THE GENERAL COUNCIL

There is then, for Marsilio, still a core of Christian belief upon which the church must be able to speak authoritatively, and for which his theory must provide a human institution. For this purpose, like others of the fourteenth and fifteenth centuries who were convinced of the shortcomings of the hierarchy, he chose a General Council, which he regarded as the organ of the church for deciding such disputes. He is unwilling that the pope and the hierarchy, being merely human agents, should be permitted to pass on disputed articles of faith. To the church itself as a corporate body, or more narrowly to a General Council, he is willing to concede—a little naïvely, it must be admitted, if this part of his theory is to be taken seriously—a mystical infallibility, the one point of contact between reason and faith which the prevailing rationalism of his system permitted. In a General Council, he chose to assume, inspiration would join hands with reason to supply an authoritative version of the divine law contained in Scripture and a satisfactory answer to the reasonable differences of opinion that might arise about such matters. On this point William of Occam was more acute than Marsilio, for William perceived that in matters of faith a council, being itself a human institution, could no more be counted infallible than the pope.

Marsilio's theory of the church is, therefore, a bit of patchwork in his system. He transfers to the church an element of his political theory, assuming that the whole body of Christian believers, like the whole body of citizens in a state, is a corporation (*universitas*) and that the General Council, like the political executive, is its delegate. The difficulty is that this transference requires citizens to figure as the members of two corporations, their respective states and the universal church, and there is really nothing in his theory of society to account for this kind of dual citizenship. It is a concession to the fact that Marsilio's theory was more purely secular than the prevailing conception of the society to which he had to apply it. In respect to organization the important difference which he makes between the church and the state is that the council is a representative body. He proposes that all the main territorial divisions (*provinciae*) of Christendom shall choose representatives, as their rulers shall direct, and in proportion to the numbers and quality of their Christian population. These representatives shall include both churchmen and laymen, and shall be men of approved life and learned in the divine law. They are to

meet in a convenient place, as their rulers shall direct, and shall decide in the light of Scripture any dubious matters of belief or religious practice likely to cause strife among Christians, and their decisions shall be binding on all, and more particularly on priests. But Marsilio's General Council, perhaps as he himself intended, is really dependent upon secular governments, for it is called by their co-operation, and its decisions, if they need to be enforced, depend upon coercion supplied by the states. The authority of a General Council is as nebulous as the corporation of all Christian believers of which it was the organ. The truth is that Marsilio's conception of European society provided no real basis for an international organization like the church. In this respect, in providing a theory for a General Council, he provided also the reasons why, when the theory was tried, it proved to be merely a paper constitution, impractical because of the national jealousies and particularism which it lacked the force to unite. Effective as a destructive attack on the spiritual authority of the hierarchy, it was ineffective as a means of restoring the unity of the Christian commonwealth of the Middle Ages.

Few theorists in any age, and none in the Middle Ages, cared to go as far as Marsilio in whittling down the spiritual freedom which formed the permanently important claim fostered by Christianity. Not until the Erastian theories of the seventeenth century, such for instance as that of Hobbes, was there an equally consistent attempt to reduce religion to an ineffectual private faith, with overt action wholly in the control of secular government. Essentially his political philosophy was a recrudescence of the theory of a city-state, competent to regulate every branch of its civilization. In this respect it represented the purest form of a naturalistic Aristotelianism that medieval philosophy produced, and it suggested the revived paganism of the Italian renaissance, which appeared full grown in Machiavelli two centuries later. It is true that his theory as a whole is something of a compromise. His citizens still appear as members of two corporations, the state and the church. The latter, however, has wholly lost its authority, though the idea is still preserved that a common belief and a universal ecclesiastical discipline can be maintained. Marsilio's state is, therefore, not quite a separate secular institution, obligated to keep its hands off religious faith, as his church is certainly not a purely voluntary association with no need for coercive power. His self-sufficing human community is in the dangerous position of having to act as an agent of a supernatural church. That this was an impossible position experience was to reveal. Papal absolutism might be disposed of as a fictitious spiritual claim, but only on the condition that secular governments would grant to their subjects a much larger measure of religious freedom than Marsilio ever contemplated.

WILLIAM: THE FREEDOM OF THE CHURCH

The nature of the struggle against the papal *plenitudo potestatis* in the fourteenth century is more apparent in the works of Marsilio's great contemporary, William of Occam,[1] than in the *Defensor pacis*. William's theory is less complete and less consistently worked out than Marsilio's, and it is more difficult to get at, spread as it is through controversial works of enormous size. A political philosophy was never a primary object with William, since he was first and foremost a dialectician and a theologian. But perhaps because he did not try to make a systematic theory of the state, his views were less doctrinaire than Marsilio's sometimes are. Probably he represented more typically than Marsilio the reaction of a large body of Christian opinion to the papal imperialism which, as he conceived, had ended so disastrously for the church and for Europe. Specifically William spoke for the part of the Franciscan Order, the so-called 'Spirituals,' who defended clerical poverty and who had been excommunicated by John XXII. He was, therefore, the spokesman of a type which figured largely in the political writing of later centuries: a minority persecuted, as they believed, for conscience' sake and appealing in the name of liberty to enlightened public opinion against constituted authority. His question, therefore, was essentially the rights of subjects against their rulers, the limitation of sovereign papal authority in matters of faith, and the right of a minority to resist coercion. For William, papal sovereignty is, from the standpoint of Christianity, a heresy, and from the standpoint of policy, a disastrous innovation that has filled all Europe with strife, has destroyed Christian freedom, and has led to an invasion of the rights of secular rulers. The last point, however, is not the most important. His primary purpose was to assert the independence of the whole body of Christian believers against the pretensions of an heretical pope. The issue is between the universal and apostolic church and the "Church of Avignon."

In this connection William's general philosophical position is not without importance. The breaking down of Thomas's closely knit structure of reason and faith, of science, philosophy, and theology, was

[1] There is no collected edition of his works and no modern edition of the larger controversial works. A very considerable body of his political writings was printed by Melchior Goldast in the second volume of his *Monarchia Sancti Imperii Romani*, 3 vols. (Frankfort and Hanover, 1612–14), the largest being *Opus nonaginta dierum* (dated by Scholz 1333–34); *Super potestate summi pontificis octo questionum decisiones* (dated by Scholz 1342); *Dialogus* (*c.* 1343; it includes several tracts written earlier and is unfinished). A number of hitherto unpublished tracts have been printed with analyses by R. Scholz, *Unbekannte kirchenpolitische Streitschriften aus der Zeit Ludwigs des Bayern, 1327–1354*, *Bibliothek des kgl. preuss. hist. Instituts in Rom*, Bde. IX, X (1911–14). Of these a fragment, *De imperatorum et pontificum potestate* (*c.* 1347. Scholz, *op. cit.*, Part I, pp. 176 ff., analysis; Part II, pp. 453 ff., text) is William's *apologia pro vita sua* and the clearest account of his own views that he wrote, since it lacks the dialectical elaboration that often makes it hard to distinguish what he himself believed.

not in the first instance due to an effort to liberate reason, but rather to an effort to liberate faith. Even in Thomas's lifetime his ambitious plan of synthesis failed to win the assent of many contemporaries, chief among them the great philosopher of the Franciscan Order, Duns Scotus. William continued in the tradition that Scotus began. As compared with Thomas both men greatly sharpened the distinction between reason and faith. The contrast depended upon the fact that they thought of theology as having to do mainly with supernatural things, known only to faith through revelation and having mainly moral uses, while they confined philosophy more definitely to theoretical truths which are within the power of unaided natural reason. The tendency was similar to that which reached a climax in Latin Averroism, already mentioned as having influenced the Aristotelianism of Marsilio, but the Occamists managed to remain somewhat precariously within the bounds of orthodoxy. Though they held that important dogmas like God and immortality were indemonstrable, they at least stopped short of the Averroist doctrine of a twofold truth. But the total effect was none the less destructive of Thomas's system: reason gained its freedom by vindicating for faith the large but shadowy realm of the unknowable. Closely connected with this separation of reason and faith was a sharper distinction between reason and will, both in psychology and in theology. In man and in God William regarded the will as a force and spontaneous power of action not determined by any reasons whatever, and in consequence he referred the moral difference between good and evil to the will of God. The implications of this for legal theory were important, since it seems to identify law with legislative fiat, but there is a question how far William actually carried his metaphysics over into his theory of law.[1]

Despite the subversive tendency of William's philosophy as a whole, his political theory was essentially conservative in intention. In his effort to vindicate Christian freedom against the pope he moved within a circle of ideas well known to his time. He argued against papal absolutism as an innovation and a heresy, and he marshalled against it views for which he claimed, not without truth, a common acceptance. William's argument stood upon the ancient distinction and independence of the spiritual and temporal authorities, and on the assumption that independence was feasible while each power was granted a large and ill-defined discretion for correcting the faults of the other. Mutual support and comity between the two powers, provided each acted within the limits set by divine and natural law, still seemed to him possible. The circumstances under which he wrote caused him to argue for a representative check upon what he regarded

[1] See O. Gierke, *Political Theories of the Middle Age*, trans. by F. W. Maitland, pp. 172, n. 256. M. A. Shepard, "William of Occam and the Higher Law," *American Political Science Review*, Vol. XXVI (1932), p. 1009, takes issue with Gierke.

as the arbitrary exercise of papal power, but he had no real objection to a large discretionary power even in the pope, provided only it were exercised by one whom he could admit to be a true pope. In other words, the legal definition of the two jurisdictions seems not to have interested him greatly. The essential questions were for him theological rather than juristic.

A similar indefiniteness may be noticed in his treatment of the empire. He denied, of course, that the emperor's power was in any sense derivative from the pope, that the ceremony of coronation added to his lawful authority, and that papal confirmation of an election was necessary. In other words, he derived the emperor's power from the election itself, the College of Electors standing in the place of the 'people' and speaking for them. In this general sense he conceived of the imperial power—indeed any royal power—as arising from the consent of a corporate body of subjects, expressed through their magnates. Because of his standing controversy with the pope, William attributed very great powers to the emperor to intervene for the sake of reforming the church, but he evidently regarded these as exceptional and for use in an emergency, such as he believed the existing situation to be. On the whole he stood upon the traditional distinction of the two powers, leaving the question of definition very much where it had always been. In the same way he had practically nothing definite to say about the relation between the emperor and the national kingdoms of France and England. He attributed a vague precedence to the emperor over other kings, but as an Englishman he certainly had no sentiment for Germany. His writing lacked the traces of national feeling apparent in much that had been written by Frenchmen in defence of Philip the Fair, and also the enthusiasm for the city-state, which may often be felt in Marsilio. In this respect also William stood definitely in the older medieval tradition.

The basis of his political ideas was the rooted and almost universal medieval dislike of arbitrary power, or of force exercised outside the framework of what was felt to be law. In this respect his principles were substantially identical with those of St Thomas. The whole body of the law included, for William as for Thomas, both the revealed will of God and the principles of natural reason, the dictates of natural equity and the common practices of civilized nations, as well as the special customs and positive law of particular peoples. Together it all formed a single system, flexible in its details, allowing for changes of time and circumstance but without felt violations of the underlying principles. The law of a single people falls within this great system; it can never justly establish a rule contrary to natural law, though it may provide in the spirit of reason and equity for new conditions as they arise. The law, therefore, provides potentially for every contingency, and all exercise of authority must be justified by the common

good and by its consonance with natural justice and sound morals. Without this sanction, force is arbitrary and government becomes, to use St Augustine's telling phrase, "highway robbery on a large scale." This is the conception, characteristic of all medieval political thought, that underlies William's opposition to the acts of the pope. John has exceeded his power; he has set up dogmas in defiance of Scripture and has invaded the eternal rights of secular rulers and of Christians everywhere.[1] The pope, who styles himself "the servant of the servants of God," has become a mere tyrant.

THE CONCILIAR THEORY

In his belief in the omnipotence of law, William represented a conviction almost universal in the fourteenth century. He was important mainly because of his determined opposition to what he held to be tyranny in the church, because of the latitude of Christian freedom which he was led to assert, and incidentally because of his desire to provide the church with a government which could less arbitrarily decide moot points of Christian belief and practice. Here too he was more concerned with doctrinal questions than with forms of government. Essentially his position was a defence of critical scholarship and of the enlightened judgment of Christendom against the fiat of constituted authority. He was confronted by a dilemma: a pope who claimed to be infallible, and who was widely held to be so, but who was, in William's judgment, a heretic. It followed that papal judgments are not always valid. Like most men in the fourteenth century who were dissatisfied with the religion of the church, he could see no expedient more practical than a General Council to check and, as it were, to constitutionalize, the power of the hierarchy. With the beginning of the Great Schism in 1378 this became the great issue in ecclesiastical politics, for which William's theories, like those of John of Paris and Marsilio, prepared the way. But William was too acute to suppose that any practical expedient could solve a logical difficulty. He was no more ready to grant the infallibility of a council than of the pope, for even a council might err, though in so far as it represented the wisdom of Christendom, it would be less likely to do so. William was really posing a larger question: How can human beings ever be sure that they have reached the absolute truth?

On this point, however, he had really no doubts. Like all scholastic philosophers he had an implicit belief in reason, and also an abiding trust that Christian faith could establish its validity by its

[1] See the account of William's theory of the higher law by M. A. Shepard, cited above, in the *Am. Pol. Sci. Rev.*, Vol. XXVI (1932), pp. 1005 ff., and Vol. XXVII (1933), pp. 24 ff. I am unable to see that William added materially to the prevailing belief of his time in respect to the sanctity of law.

own inherent authority. The final judgment in a moot point of doctrine he conceived to lie in the living body of the church, continuous throughout its whole history, and the recipient of a divine revelation. The unique source from which this revelation can be learned is Scripture, in comparison with which the decretals of the popes or even the decisions of councils have only secondary value. Like all the earlier Protestants he assumed unquestioningly that sound scholarship and honest research would bring to light religious truth which would commend itself to all men of goodwill. Inquiry is not only a right but a duty, and the decision belongs to the wisest, not to any constituted power. There was, of course, for William no question of a literal freedom of belief, for he assumed that with proper search what must be believed would be apparent. But there must be freedom to search and by implication freedom to judge. Hence for him the great political problem of the age was the curbing of papal absolutism. Only if clergy and laymen could unite to lay down just limits to papal power could peace be restored between the pope and Christendom. For this end the best expedient that he could see was a constitutionalized form of church government by means of a General Council representing the sound body of Christian scholarship and belief.

The council William proposed to make broadly representative. He said explicitly that it must include laymen as well as the clergy, and he has no objection even to including women. The basis of representation should be the great number of corporations, such as parishes or monasteries or cathedral chapters, into which the membership of the church falls. Certainly William had no thought of representing Christians individually, as so many discrete units, or territorially, as the inhabitants of such and such districts. A corporate body (*communitas*), he says, can act as a whole and also through its chosen representatives. What he proposed, therefore, was a rough plan of what might be called indirect representation: the religious corporations of some convenient district, such as a diocese or kingdom, should choose representatives to a provincial synod, which in turn should choose representatives in a General Council. Unorganized as the plan seems in comparison with modern electoral machinery, it might be feasible so long as the constituent corporations were sufficiently well marked and well unified. William was, in fact, drawing upon contemporary experience both in the church and in the state. Medieval parliaments represented essentially the communes of the realm, such as boroughs and counties, not as territorial districts but as corporate bodies. But William's plan for a General Council was probably based even more directly upon the government of the two great Mendicant Orders. The houses of the Dominican Order were organized by provinces, and by the middle of the thirteenth century there was already a well developed electoral system for choosing representatives to the

various assemblies. The Franciscan Order, to which William himself belonged, adopted a similar plan, and in the course of the thirteenth century some such plan of representation was widely used by various monastic orders.[1] The conciliar plan was, therefore, a scheme for extending in the church generally a device already widely in use and one quite in accord with the prevailing idea that corporate bodies could act and speak as units. Unfortunately there were special obstacles that made it unsuccessful when applied to the whole church, though it was a very natural device for ecclesiastical reformers to adopt. The political philosophy of William of Occam was characteristic of the state of political thought in the mid-fourteenth century, both for what it saw and for what it failed to see. It still moved within the limits of the old discussion about the relation between *imperium* and *sacerdotium*, though anything approaching a general control by the papacy over the secular kingdoms was already a thing of the past. Yet it brought into the centre of political discussion the relationship between a sovereign and his subjects and the right of the latter to resist on grounds of conscience and in defence of what they held to be Christian truth. It was in the nature of the case that this issue should first have been drawn within the church. For the theory of papal *plenitudo potestatis* was the first definite claim in the Middle Ages to a power that was absolute, indefeasible, and sovereign. As such it was repugnant both to medieval conviction and practice, and the controversy with the spiritual Franciscans marshalled against it the weight of ancient tradition and current belief. The Great Schism which followed produced in the church the first great controversy between the claims of sovereignty and the principle of constitutional and representative government.

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[1] Ernest Barker, *The Dominican Order and Convocation* (1913), Part I. On the growth of representative institutions see C. H. McIlwain, "Medieval Estates," in *Cambridge Medieval History*, Vol. VII (1932), ch. xxiii.

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CHAPTER XVI

THE CONCILIAR THEORY OF CHURCH GOVERNMENT

In the century which followed the writings of William of Occam the controversy over absolute papal authority in the church was spread far and wide through Europe, so that it became the subject of a vast and popular debate. The absolute power of the pope in the church was no academic question, touching merely the abstract rights of his ecclesiastical subjects. It meant the tightening up of the whole process of government, including papal control over the giving of benefices, the drawing of ecclesiastical cases into the papal courts, the diversion of great sums of money into the papal revenues, and the systematic exercise of irritating forms of papal taxation. Thus the luxury of the papal court and the venality of papal government became the ground of bitter criticism, as they continued to be down to the Reformation. The Great Schism, which lasted from 1378 to 1417, made matters worse; it would be hard to exaggerate its effects on popular thought everywhere in Europe. The spectacle of two and sometimes three, rival popes, often no more than appendages to dynastic and national ambitions, using all the arts of theological invective and political chicanery against each other, must have gone far to destroy the respect in which the papal office had traditionally been held. Moreover, the whole ecclesiastical organization became infected with corruptions and abuses, partly the result of the Schism itself, which tended to bring the clergy generally into disrepute. Chaucer's Pardoner and Summoner are examples of the disreputable hangers-on of the church as they appeared to a fourteenth-century literary man.

THE REFORM OF THE CHURCH

Here, then, was a problem of government—in the church rather than the state, to be sure—which was certain to be debated from one end of Europe to the other, and by men of all social classes and all degrees of learning. "The reform of the church in head and members" was a popular question. The discussion of it may not unreasonably be called the first great movement of popular political education. Wycliffe (*c.* 1320–1384) in England and John Hus (*c.* 1373–1415) in Bohemia attracted great popular followings, and their teaching was by no means confined to those who could read their crabbed scholastic

philosophy. Yet there was a direct transference of ideas from the polemical writings of the days of Lewis the Bavarian to Wycliffe and through him to Hus. The papal Bull of 1377, which condemned Wycliffe's conclusions, traced his opinions to Marsilio "of damned memory," and he himself acknowledged indebtedness to William of Occam and the spiritual Franciscans. National questions, peculiar to England or Bohemia, traversed each reformer's purposes, but behind these lay common problems, such as the ownership and taxation of church property and the exactions of papal taxation. And with both reformers the animus of their thought was opposition to ceremonialism, to the monopoly of spiritual authority by the hierarchy, and to the absolute power of the pope. Without having any definite theory of church government, both Wycliffe and Hus united in identifying the church with the whole body of Christians, lay as well as clerical. It is the church and not the hierarchy that is the recipient of divine law and spiritual power. The spiritual bond of this society, the direct relation of the believer to God, expressed in faith and good works, is all that gives weight to religious observance, not the ceremonial or the sacrament. "Crown and cloth make no priest . . . but the power that Christ giveth." The church as a perfect society must include the powers needed for its own regeneration, and for this reason it must be right for laymen to reform evil manners in the clergy.

The independence and self-sufficiency of the church in spiritual matters was, therefore, a ground for anti-clericalism. By an even stranger paradox it was made a ground for strengthening secular power. The mechanics of this result was simple: the reformer discovered that he was dependent on royal support to coerce the pope and the hierarchy, even in the interest of reform. It was thus that Martin Luther was thrown into the arms of the German princes, and that the divine right of the king became almost an official philosophy for Lutherans and Anglicans. Even in the fourteenth century Wycliffe was pressed in the same direction, though for more than a century men would still pin their hope of reform to a General Council within the church. The king, he argued,[1] is the vicar of God and to resist him is wicked. Even bishops derive their power from him, and so far as this world is concerned, the royal power is of greater dignity than that of priests, for a spiritual power requires neither earthly power nor property. Hence it is the right and the duty of the king to remedy abuses in the government of the church. This language is at once reminiscent of the *York Tracts* and suggestive of the argument which ultimately made the king the temporal head of a national church. In the long run the political beneficiary of a spiritualized religion was the secular power itself, and the first result of freeing the church from the control of the hierarchy was to place it more completely in the power of the king.

[1] *De officio regis* (1378–79), ed. by A. W. Pollard and Charles Sayle, London, 1887.

The reform movements led by Wycliffe and Hus thus had the effect of transferring the question of papal power, and all its innumerable ramifications, to the forum of popular discussion. For this reason it is not irrelevant to mention in this connection the appearance, below the level of respectable political philosophy, of a sort of proletarian doctrine of equality, connected with the religious issue but going far beyond it in the direction of an attack upon social and economic distinctions. Such ideas appeared in the peasant revolts of the fourteenth century, in France in 1351 and in England in 1381. These revolts, the result of bitter economic pressure and of unjust taxation and labour legislation, had always their obscure sense of the opposition between class-interests:

> When Adam delved and Evé span,
> Who was then the gentleman?

Even earlier in date the moralist continuator of the *Romance of the Rose* could assert:

> Naked and impotent are all,
> High-born or peasant, great and small:
> That human nature is throughout
> The whole world equal, none can doubt.[1]

But in the mass such ideas had always a strong religious colouring; they were the thoughts of simple-minded folk who believed with pathetic literalness in the Christian ideals of brotherhood and equality. It was just in the submerged classes that the more obscure heretical sects flourished, the Lollards in England and the extremists among Hus's followers in Bohemia. In the Bohemian sects especially, the idea is found that the law of the Gospel is a kind of communism, in which Christians dwell together in freedom and equality, with no distinctions of rank or privilege such as are imposed by human law and institutions. The belief that the ideas of Wycliffe and Hus implied these extremes caused their opinions to be condemned by many who sincerely desired reform in the church. Such obscure ideas of social equality were of no practical importance in the fourteenth century, but they show how the movement for reform was becoming—what it had not previously been—a mass-movement among men who had little knowledge of scholastic philosophy.

THE SELF-SUFFICING COMMUNITY

The party which stood for a conciliar reform of church government at the Councils of Constance (1414–18) and Basel (1431–49) had no sympathy with popular agitation, even in the more moderate form represented by Wycliffe and Hus. Its leaders were among the most active in the condemnation of Hus at Constance. The conciliar theory

[1] Ll. 19–11–14; trans. by F. S. Ellis.

was, in the main, the creation of a group of scholars[1] connected with he University of Paris, men thoroughly conversant with the scholarly writings of predecessors like John of Paris and William of Occam. Its deficiency as a popular movement is proved by the rapidity of its subsidence, once the Council of Constance had succeeded in removing the scandal of the Schism. The general sentiment of Christendom was agreed about the need of restoring unity in the church; it was not equally determined to change the whole principle of church government by abolishing the supremacy of the pope. Indeed, it was quite unable to do this, for Christendom was, in fact, no longer sufficiently a unit to produce a system of representative government on a European scale. The effort of the Councils of Constance and Basel to draw up a workable plan of constitutional government failed completely, and from the point of view of practical politics, the movement seems, at least after the event, to be somewhat academic. The conciliarists could pass resolutions, but they could not make a government. After the curing of the Schism the project of reforming the church by a General Council, though it could still be talked about even as late as the sixteenth and seventeenth centuries, was definitely not within the region of practical politics. The importance of the conciliar movement in political thought lay in the fact that it was the first great debate of constitutionalism against absolutism, and it prepared and spread ideas which were used in the later struggles.

The principle which the conciliarists developed had already been clearly stated by the opponents of the papacy from John of Paris to William of Occam. The church, being a complete and self-sufficing society, must possess all the powers needed to ensure its continuance, its orderly government, and the removal of abuses as they occur. Consequently the spiritual power with which it is endowed is vested in the church itself, in the whole body of the faithful as a corporate body, and the clergy, including the pope, are merely the ministers or organs by which the society acts.

> Therefore when it is said that the pope has sovereign power, this should be understood not of the pope by himself but as he is in the whole body, so that the power is in the whole body as its foundation and in the pope as its chief minister, by whom the power is exercised.[2]

[1] The conciliarists included a considerable number of writers, of whom the chief were Henry of Langenstein, Conrad of Gelnhausen, Francisco Zabarella, Peter d'Ailly, John Gerson, and Nicholas of Cusa. Their writings on the subject are listed in Otto Gierke, *Political Theories of the Middle Age*, trans. by F. W. Maitland, pp. lxx ff. The most considerable collection is in the edition of Gerson's works published in 5 vols. at Antwerp, 1706, which includes tracts by Henry of Langenstein, Peter d'Ailly, and others, as well as the writings of Gerson. S. Schard, *De jurisdictione, autoritate, et praeeminentia imperiali, ac potestate ecclesiastica*, prints Zabarella's tract and Nicholas's *De concordantia catholica*. A new edition of the works of Nicholas of Cusa under the auspices of the Heidelberg Academy will include this work in Vols. XIII and XIV.

[2] Zabarella, *De schismate*, in Schard, *op. cit.* (1566), p. 703a.

In this conception several ideas were combined. Most explicit, at least in Zabarella, is the legal analogy of the corporation which acts through its authorized agents but which itself provides the authority that its agents exercise; it is the whole body which speaks and acts through its organs. There is also, of course, obliquely a reference to Aristotle's theory of the self-sufficing community which is capable of doing all that its life requires, and whose well-being is the justification for what is done in its name. But perhaps more important than either of these is the rooted belief, already very ancient in the fifteenth century, that a people or a community has an inherent power to make its own law and set up its own rulers, and that it is by virtue of this consent or acceptance that lawful government differs from tyranny. The right of a council or other representative body depends upon the fact that it stands in the place of the community and speaks for it, witnessing to the fact that a rule really has the consent which gives it binding force. At the start this had been the guiding idea of the inquest or jury: competent representatives declared what the valid practice was. Unlike modern ideas of legislation it looked to the past rather than to the future; not the will but the custom of the community was binding.

HARMONY AND CONSENT

The defence of the General Council was very carefully developed by Nicholas of Cusa in his *De concordantia catholica*, which was presented to the Council of Basel in 1433. The keynote of the work is harmony rather than authority, and it leaves the question in doubt whether ultimately power is vested in the pope or in the council. The superiority of the council lies in the fact that it represents, better than any individual can, the agreement or consent of the whole church. Nicholas argues, evidently on the authority of the canonists, that approval or acceptance by the community is an essential ingredient of law. Such approval is shown by usage or custom (*approbatio per usum*), and the council, which stands for the whole body, speaks with more authority on this point than an individual. Papal decretals have often failed to attain the force of law because they have not been 'accepted,' and similarly a law which drops out of use loses its force. Acceptance even by a 'province' is necessary to make a rule locally binding, because "all law ought to fit the country, place, and time."[1] In this general sense, therefore, all government depends upon consent:

> Accordingly, since by nature all men are free, any authority by which subjects are prevented from doing evil and their freedom is restrained to doing good through fear of penalties, comes solely from harmony and from the consent of the subjects, whether the authority reside in written law or

[1] II, x–xi.

> in the living law which is in the ruler. For if by nature men are equally strong and equally free, the true and settled power of one over the others, the ruler having equal natural power, could be set up only by the choice and consent of the others, just as a law also is set up by consent.[1]

Kings are therefore to be regulated by "the general pact of human society," for it is to this that kings owe their existence. The thought is obviously the same as that quoted in an earlier chapter from Bracton, that the king ought to obey the law because law makes the king.

The verbal identity of this quotation from Nicholas with the revolutionary arguments of the sixteenth to the eighteenth centuries is sufficiently obvious, but unless taken with proper qualifications it is also somewhat misleading. That the conceptions of natural law and the rights of subjects expressed by Nicholas were the direct ancestors of the later revolutionary theories is not open to question. These ideas had long been part of the heritage of European society. The important point is that the conciliarists, along with the earlier anti-papal controversialists, turned them against constituted authority, making of custom itself a defence of what they chose to believe an ancient liberty, against a power that they regarded as arbitrary. This element remained, more or less, in the later revolutionary argument, as may be seen from the facile way in which seventeenth-century radicals confounded the natural rights of man with the traditional rights of Englishmen. But there is still a fundamental difference between the context, at least, of Nicholas's argument and that of the revolutionary era. By consent the later argument meant, or tended to mean, individual acceptance by each and every human being acting as a unity. In the fifteenth century such a meaning was hardly possible, for the right of private conscience and inward conviction had not the force that it had after the unity of the church was broken. Nor had the breaking-up of traditional social and economic institutions produced the 'masterless man' who can be conceived to act only from his own internal motive-power. With Nicholas the emphasis was all on the natural freedom of the community, the society that by its own spontaneous approval generates binding practices for its members, that makes law half-consciously and gives its assent through the voice of its natural magnates.

The substance of the conciliar theory, then, was that the whole body of the church, the congregation of the faithful, is the source of its own law, and that the pope and the hierarchy are its organs or servants. It exists by virtue of divine and natural law; its rulers are subject to natural law, and also to the law of the church's own organization or being. It is right and proper that they should be restrained within the limits of this law and that they should be checked and limited by the other organs of the ecclesiastical body. The pope ought to submit his decretals to consultation and approval by a representative body in

[1] II, xiv.

order that they may be 'accepted' by the church. If he does not do so, and especially if he tries to usurp an authority beyond that which is proper to his office, he may be justly deposed. The precise grounds for deposition were vague. The strongest ground, and the one which the conciliarists were most likely to try to fasten upon a contumacious pope, was heresy. Some writers held, however, that other offences would suffice. There was common agreement that a General Council could depose, though some held, following John of Paris, that the College of Cardinals also was competent to do this. The model of government which guided the conciliarists was the medieval constitutional monarchy with its assembly of estates, or perhaps more definitely, the organization of the monastic orders, in which lesser corporations were combined through their representatives in a synod representing the whole body. If the conciliar theory had become a workable form of government, it would have had either to create the General Council as a regularly functioning body, or to transform the College of Cardinals into something like a medieval parliament. Neither plan was, in fact, feasible.

Looking at a controversy such as this after the event, it is easy to say that the issue was whether the ultimate right of decision lay in the pope or in the council, but this way of putting the point is not accurately historical, for the issue developed only in the course of the controversy. In the case of the conciliarist controversy it never clearly evolved, as it did later in the similar issue in England between the king and parliament. Every one, it should be remembered, entered controversies of this kind with the presumption that he was dealing with a temporary emergency, which could be removed without altering fundamentally the existing form of government. So far as the conciliarist movement was concerned, its popular power grew out of the admitted need to abolish the scandal of the Schism, and it subsided when this was accomplished, with no result except to confirm by its failure the sovereign power of the pope. The reason why the issue was not clearly drawn between the authority of the pope and that of the council was that, in contemporary opinion, ultimate power did not reside in either the one or the other, or in fact in any organ of ecclesiastical government. The essential principle of the conciliar theory, like that of the medieval monarchy, was that the church or the community or the people was self-governing and that its power was resident in the whole body. Obviously, however, the whole body had no political existence and could become vocal only through some one or more of its organs. The conciliar theory, moreover, was opposed to the idea that some single organ must be chosen as having the last word. Precisely because ultimate power lay in the whole church, each of its organs—pope, council, or college—was less than final; they were, in a sense, coordinate as the creatures of the whole church, or if they were not

strictly co-ordinate, each had at least an underived right to perform its own function. In no case was the power of one clearly delegated by another. All had an inherent power as compared with the others, though all derived their power from the whole community. Government, therefore, was properly a co-operative enterprise, a harmony or *concordantia*, as Nicholas called it, and not a delegation of power from a sovereign head.

Evidently, however, the whole trouble was that harmony among the governing organs of the church had ceased to exist. Consequently the conciliarists faced a difficulty which could hardly be settled in terms of existing law. A council might be, in an emergency, a better organ for determining the consensus of the whole church than the pope. But legally a council could hardly exist and certainly could not function without the co-operation of the pope, and if there were two or three popes the problem was insoluble. The argument so often used in defence of the council, that necessity overrides all law and that in an emergency the emperor might call a council and secure the election of a canonical pope, was logically an evasion and practically a makeshift. The only practicable outcome of the conciliarist position would have been for the council to establish itself as the source of papal authority by reducing the pope to the position of its own executive, and this solution equally would have been extra-legal. Such a result would have entailed a thorough-going alteration in the idea that government is a co-operation of the organs of a self-governing community. The whole situation prefigures surprisingly that in which the English Parliament found itself in its struggle with Charles I. Here, too, the inherent power both of the crown and of parliament was, at the start, an accepted proposition. Parliament could exist only at the king's call and legislate only with the king's approval, though parliament itself had an inherent right to be consulted. King and parliament together formed what Nicholas of Cusa would have called the *concordantia* of the realm. In the end, of course, parliament asserted a power over the crown which violated the initial conception of harmony quite as much as the absolute power of the king would have done.

THE POWER OF THE COUNCIL

In general the conciliarists aimed to erect the council into an integral part of church government, able to correct abuses and check what they believed to be the arbitrary power of the pope. Their practical purpose was to remedy and prevent disasters such as the Schism in which unrestrained papal power had resulted. Possibly a few extremists really faced the idea that papal authority might be made merely derivative from that of the council, but as a rule they conceived the power of the church as jointly shared between the pope and the council,

with no serious intention of destroying, for ordinary purposes, the monarchical power inherent in the papal office. In short, they stood on much the same ground as the feudal lawyers. Strictly speaking, a writ would not run against the pope and yet, in extraordinary cases, he might be cited to appear before a council and might be condemned for contumacy if he did not do so. An abuse due to papal usurpation might be corrected by a council, as Bracton had said a king might be called to account by the *baronagium* of the realm. The council, as most truly representing the whole church, was first among its organs of government. But the council's functions were primarily regulatory and it was hardly intended that it should either supersede the other organs or reduce them to the status of its agents. The idea was a monarchy tempered by aristocracy in which the authority conceived to lie in the whole church was shared concurrently among its representative organs. Each organ had the right and the duty to keep the other organs in their places, while all were subject to the organic law of the whole body.

The measures which the Councils of Constance and Basle enacted illustrate this theory. Early in its proceedings the Council of Constance stated the principle in a famous decree:

> This synod, lawfully assembled in the Holy Ghost, and forming a general council representing the Catholic Church, has its power directly from Christ, and every one, of whatever rank and office, even the Pope, is obliged to obey it in matters touching the faith, in the removal of the Schism, and in the reformation of the church in head and members.[1]

This decree was re-enacted at Basle in 1432, an action far more radical since by that time there was only a single pope, who was generally recognized as canonical. The Council of Basle further declared the principle to be an article of faith whose denial was heresy. Both councils, like the Long Parliament after them, enacted that they were not to be dissolved without their own consent. The Council of Basle cited Eugenius IV to appear and declared him contumacious for failing to do so and finally deposed him, though without practical effect. Both councils tried to secure the convocation of future councils at regular intervals. The Council of Basle tried to revive diocesan and provincial synods throughout the church and to regulate papal elections in such a way as to ensure obedience to conciliar decrees. There was, moreover, an effort to place the College of Cardinals on a footing more representative of the church and more independent of the pope, perhaps with the idea that it might become a third, or aristocratic, element in the government of the church, between the pope and the General Council, or a standing council to act as a permanent check on the monarchical power of the pope. In this the conception of a mixed constitution was clearly the guiding idea.

[1] Mansi, *Conciliorum coll.*, Vol. XXVII, col. 585.

Since Nicholas of Cusa has already been quoted to illustrate a rather strong statement of the doctrine of government by consent, it will, perhaps, be well to refer briefly to his theory as a whole, in order to show that the conciliarist theory, in combating the absolute power of the pope, had no intention of substituting for it the sovereign power of the council. It is true that Nicholas wrote after the healing of the Schism, and that a few years after the Council of Basle he left the conciliar party and became the most important of the ecclesiastical statesmen who tried to foster reform as the servants of an absolute pope. He was, perhaps, more truly a diplomat than a political theorist, but at least, in 1433, he had the advantage of having the conciliar theory completely before him. If the *De concordantia catholica* be judged as a theory of co-ordinated legal authority, it is conspicuous for its logical difficulties. The author holds at once that a general council must be called by the pope in order to be œcumenical and yet that, once it is in existence, it may for good reasons depose the pope that called it. He treats the papal power as at once administrative and yet as derived from Christ and St Peter. The pope represents the unity of the church, but the council represents it better. The pope's adhesion is necessary to make a council, and yet the council is superior to the pope. The pope is a member of the church and subject to its law; his election presumes his utility to the church, and his failure in this duty absolves churchmen from their obedience. But no legal process, strictly understood, will reach him. The purpose of citing these contrarieties is not to show that Nicholas was confused but to illustrate the fact that it is an anachronism to regard his *concordantia* as a theory of powers delegated by a supreme authority. His point is that the church itself is a unity and that it alone is supreme and infallible, but neither the pope nor a council is the sole spokesman of this infallibility. With good reason he distrusted them both, though he unquestionably believed in reform and hoped that a representative system, by bringing the hierarchy more closely into relation with the various parts of the church, would tend in that direction. But the problem as he saw it was one of co-operation rather than of legal subordination.

THE IMPORTANCE OF THE CONCILIAR THEORY

The conciliar movement neither reformed the church nor changed its form of government. A council which was itself a prey to every form of national jealousy was ill qualified to attack the stupendous mass of vested interests that made up ecclesiastical patronage. Every one believed in reform but preferred to have it begin somewhere else, with the result that reform had to be postponed until rulers of the stripe of Henry VIII were prepared to reform most of the church's perquisites out of existence. In picturing a general representative form of

government for the church, the conciliarists were imagining the impossible. They failed to realize that even the feudal constitutional monarchy depended upon a political cohesiveness which, in realms like France and England, provided something for an assemblage of estates to represent. Whatever unity the church had in the fifteenth century was not of this kind. Unity of belief there still was, at least to a degree, and some unity of moral and religious ideals, but not a sense of political oneness which could cope with divergences of local or national interest and make the council a functioning organ of government. Even so, however, the fate which the conciliarist theory met in the church was not far different from that which befell the medieval parliaments before the advancing power of the king. Everywhere in the sixteenth century medieval constitutional institutions fell under the sway of royal absolutism. In states, unlike the church, national unity provided a force of coherence which permitted representative institutions in the long run to revive, though it was only in England that the continuity with medieval constitutionalism was preserved.

The Council of Basle had not yet dissolved when the reaction began in the church which established the sovereign power of the pope, to remain unquestioned until the Reformation, and, indeed, until the present time in the Roman Church. This conception was a reversion to the theory of the papal power developed in the canon law in the days of Innocent III, now fixed and defined by the failure of a definite effort to displace it. Conciliarism might occasionally reappear for controversial purposes even in writers whose orthodoxy was not open to attack, but both as a movement for ecclesiastical reform and as an amendment to ecclesiastical law, it was a dead issue. The leader of this reaction was John of Torquemada, whom John Neville Figgis has called "the first modern exponent of the divine right of kings,"[1] though John still regarded the power of secular rulers as limited by law. In the present-day Catholic theory of the papacy, the pope is indubitably sovereign. His power is conceived to be limited only by divine and natural law; a council cannot exist without him; the decrees of a council require papal confirmation; and the pope is competent to revise decrees which a council has passed.[2] Thus the pope in the fifteenth century established himself as the first of the absolute monarchs, and the theory of papal absolutism became the archetype of the theory of monarchical absolutism. The main argument for papal divine right was that it is impossible to invest the community itself, rather than its head, with the supreme authority by which it is governed.

The conciliar theory was not important, then, for any practical results that it brought about, but it was none the less important. The controversy in the church first drew the lines upon which the issue between

[1] *From Gerson to Grotius* (1907), p. 234, n. 15.
[2] L. Pastor, *History of the Popes* (ed. by F. I. Antrobus), Vol. I (1906), pp. 179 ff.

absolute and constitutional government was drawn, and it spread the type of political philosophy by which in the main absolutism was to be contested. Both the divine right of the sovereign and the sovereign power of the community were transferred to the field of secular government. This transfer was easy, and in the fifteenth century it was easier than it would be to-day. The distinction between the church and secular government was still pictured as a distinction not between two societies but between two organizations of the same society. Any argument about the nature of authority in either church or state must, therefore, go back to the fundamental nature of society itself. The conciliarist argument depended throughout upon the premise that any complete community must be capable of governing itself and that its consent is vital to any kind of lawful authority. The argument might apply indifferently to a church or a state, when the two came to be thought of as two societies. Under God both secular and spiritual powers must equally be latent in the people or community, and in itself this belief was in no way contrary to the accepted belief that all power is of God. But when the theory of divine right became definitely a theory of royal supremacy, the theory that power inheres ultimately in the people became the normal way to contradict it. The conciliar controversy in the church was the first occasion on which the issue between the two theories was drawn in this form, and in this form it continued to be drawn when the controversy lay between a king and his subjects.

The concilar theory in the fifteenth century, like the theory of representative or constitutional government, stood curiously balanced between past and present. It was born partly of the ancient belief in the eternal validity of natural law, partly of the conception that any community consists of necessary services and interests in a condition of mutual dependence. Hence it conceived of government as an exchange, a give-and-take, a balance between powers all of which are in their own nature indefeasible. The unity of government was thus a reflection of the unity of the community. If the word sovereign could be appropriately used at all, it would be of the whole community and not of any political institution in it, but the ancient word *res publica*, commonwealth, was far more descriptive. Thus the conciliarists opposed the papal argument that authority must somewhere come to a head as a dangerous and subversive innovation, setting against it the ideal of a harmony of powers co-operating by free and mutual consent. In a sense this constitutional ideal, which was typical of medieval theory and practice, fought a losing battle in the state, for the forces that made for the centralization of power were generally on the increase. With this tendency towards a more rigid type of political organization, in which the parts were related by the delegation of authority from a single head, the ideal of government by consent must make its peace

as best it could. But in the end centralized power also must make its peace with the consent of the governed. From the conciliar theory of the fifteenth century there is a directly developing line of thought to the liberal and constitutional movements of the seventeenth and eighteenth centuries. Running through this development and connecting it with the Middle Ages was the conviction that lawful authority is a moral force while despotism is not, and that society itself embodies a force of moral criticism to which even legally constituted power is rightly subject.

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PART III

THE THEORY OF THE NATIONAL STATE

CHAPTER XVII

MACHIAVELLI

THE failure of the conciliar party to carry the principles and practice of medieval constitutionalism into the church anticipated by only a generation or two a general recession of representative institutions in the state. And the revival of papal absolutism in the middle of the fifteenth century, astonishingly rapid in view of the degradation which the papal office had suffered for more than a century, was paralleled by a tremendous growth of monarchical power in almost every part of western Europe. In all the kingdoms royal power grew at the expense of the competing institutions, whether nobility, parliaments, free cities, or clergy, and almost everywhere the eclipse of the medieval representative system was permanent. Only in England the comparatively brief duration of Tudor absolutism permitted the continuity of parliamentary history to be preserved. The change, both in government and in ideas about government, was enormous. Political power, which had been largely dispersed among feudatories and corporations, was rapidly gathered into the hands of the king, who for the time being was the main beneficiary of increasing national unity. The conception of a sovereign who is the fountain-head of all political power, which had been the possession of a few jurists under the influence of Roman imperial law and of the extreme papalists, who had transformed the same conception into a theory of papal divine right, became, in the sixteenth century, a common form of political thought.

These changes of political thought and practice reflected changes in the whole fabric of European society, which were everywhere similar though with innumerable local differences. By the end of the fifteenth century economic changes which had been going on for years produced an accumulation of effects that amounted to a revolutionary remodelling of medieval institutions. These institutions, despite theories about the universal church and the universal empire, had depended on the fact that medieval society, in its effective economic and political organization, was almost wholly local. This was an inevitable consequence of limitations on the means of communication. A large political territory was not governable except by a kind of federalism that left to local units a large amount of independence. Trade also was mainly local, or where it was more than that, it consisted of specified commodities that moved in fixed routes, to monopolized ports and markets.

Such a trade could be controlled by producers' guilds, which were municipal institutions; the unit of the medieval trading organization was the city. Neither freedom of movement nor the use of money was very general in the fourteenth century.

Any considerable extension of the ease of communication was totally incompatible with the continuance of a trade thus locally monopolized and controlled. Economic advantage passed to the side of freedom from fixed routes and monopolized markets. The greatest profits went to the 'merchant adventurer,' who was prepared to take advantage of every market, who had capital to put into his business, and who could trade in any commodity that offered large returns. Such a merchant, having the command of the markets, could more and more gain control over production also, and he was quite beyond the power of the guilds and the cities. In so far as trade was to be controlled, the quality of goods standardized, or prices and conditions of employment regulated, this had to be done by governments of larger size than the medieval municipality. All the royal governments of Europe undertook regulation of this sort. Moreover, in so far as extended trade was to be protected and encouraged, this also became a task wholly out of the power of local government. By the sixteenth century all the royal governments had adopted a conscious policy of exploiting national resources, of encouraging trade both at home and abroad, and of developing national power.

These economic changes had profound social and political consequences. For the first time since the Roman Empire European society included a considerable class of men who had both money and enterprise. For obvious reasons this class was the natural enemy of the nobility and of all the divisions and disorders which they fostered. Their interests were on the side of 'strong' government both at home and abroad, and hence their natural political alliance was with the king. For the time being they were content to see his power increase at the expense of all the checks and limitations which had surrounded medieval monarchy. Parliament they could not yet aspire to control against the influence of the nobility; hence they were willing to subordinate representative institutions to the monarchy. The nobility they were glad to see prevented from maintaining disorderly bands of hangers-on, who intimidated the courts and officers of the law and recruited the ranks of brigands. From every point of view the bourgeoisie saw its advantage in concentrating military power and the administration of justice as much as possible in the hands of the king. On the whole the gain in orderly and efficient government was probably considerable. The king's power, to be sure, became arbitrary and often oppressive, but royal government was better than any that the feudal nobility could give.

MODERN ABSOLUTISM

By the opening years of the sixteenth century, therefore, absolute monarchy either had become, or was rapidly becoming, the prevailing type of government in western Europe. Everywhere there was an enormous wreckage of medieval institutions, for the absolute monarchy was a thing of blood and iron which rested in large part quite frankly on force. How destructive it was is concealed only by the fact that, after the event, men were more prone to take pride in the national monarchies which it helped to found than to grieve for the medieval institutions which it destroyed. Absolute monarchy overturned feudal constitutionalism and the free city-states, on which medieval civilization had largely depended, just as nationalism later overturned the dynastic legitimacy to which absolute monarchy gave rise. The church itself, the most characteristic of all medieval institutions, fell a prey to it, or to social forces upon which it depended. Weak and rich—a fatal combination in an age of blood and iron—the monasteries were expropriated by Protestant and Catholic monarchies alike, to provide the wealth of a new middle class which was the main strength of the monarchy. Ecclesiastical rulers were everywhere subjected more and more to royal control, and in the end the church's legal authority disappeared. The *sacerdotium* vanished as a power, and the church became—what it had never before been for Christian thought—either a voluntary association or a partner of national government.

The growth of absolute monarchy, like that of the feudal constitutional monarchy, took place in almost every part of western Europe. In Spain the uniting of Aragon and Castile by the marriage of Ferdinand and Isabella began the formation of an absolute monarchy which made that country the greatest of European powers throughout the larger part of the sixteenth century. In England the conclusion of the Wars of the Roses and the reign of Henry VII (1485–1509) began the period of Tudor absolutism, which extended through the reign of Henry VIII and much of that of Elizabeth. Though Henry VII owed his throne—to which he had hardly a shadow of hereditary title—to a combination of the nobility, his policy in general ran true to the forms of the period. He could not succeed without attracting the support of the middle class; he was obliged to put down with all his strength the disorderly followers of the nobility who threatened the crown and the middle class alike; he established order and thus promoted trade; he encouraged maritime ventures; and his royal power quite eclipsed the House of Commons, in which the influence of the nobility upon elections was still too strong to be safe. Germany, it is true, formed an apparent exception to the rule, for here the weakness of the empire both permitted anarchy and discouraged the growth of that national sentiment which had been the main support of Lewis the Bavarian in

his controversy with the popes. But even in Germany the prevailing tendency was delayed rather than stopped, for the rise to sovereign power of Prussia and Austria was not unlike the change which took place earlier in Spain and England and France.

It is France, however, that furnishes the most typical example of the growth of highly centralized royal power.[1] The beginnings of French national unity, already mentioned in connection with Philip the Fair, were largely lost during the Hundred Years' War. But though this period of foreign and civil war was injurious to the monarchy, it was fatal to all the other medieval institutions—communal, feudal, and representative—which had threatened to overshadow the monarchy. The second half of the fifteenth century brought a rapid consolidation of royal power which made France the most united, compact, and harmonious nation in Europe. The Ordinance of 1439 gathered the entire military force of the nation into the king's hands and made his authority effective by granting him a national tax with which to support it. The success of the measure was startling, and shows clearly enough why the rising nations were willing to support royal absolutism. Within a few years a well-trained and well-equipped citizen-army had been created and had expelled the English from the country. Before the end of the century the great feudatories—Burgundy, Brittany, and Anjou—had been reduced to subjection. In the meantime, the Estates had lost for ever their control over taxation and with it their power to influence the king, and the latter had made good his power over the French church. From the early years of the sixteenth century down to the age of the Revolution, the king became almost the sole spokesman for the nation.

Catastrophic changes such as these, occurring throughout Europe, produced as a matter of course an equal change in political theory. And in the opening years of the sixteenth century this change was summed up in the difficult—almost the contradictory—figure of Machiavelli. No man of his age saw so clearly the direction that political evolution was taking throughout Europe. No man knew better than he the archaism of the institutions that were being displaced or accepted more readily the part that naked force was playing in the process. Yet no one in that age appreciated more highly the inchoate sense of national unity on which this force was obscurely based. No one was more clearly aware of the moral and political corruption that went with the decay of long-accustomed loyalties and pieties, yet no one, perhaps, felt a keener nostalgia for a healthier social life, such as was typified in his mind by ancient Rome. Certainly no one knew Italy as Machiavelli did. And yet, writing on the eve of the Protestant Reformation, he was almost blind to the part that religion was to play

[1] See "France," by Stanley Leathes, in the *Cambridge Modern History*, Vol. I (1903), ch. xii, and G. B. Adams, *Civilization during the Middle Ages* (1914), ch. xiii.

in the politics of the next two centuries. Indoctrinated as he was in the pagan revival in Italy, he was unable both by training and temperament to grasp the constitutional and the moral ideals that European politics would carry over from the Middle Ages. Clear and broad as his vision of politics was, Machiavelli was still in a peculiar sense an Italian of the first quarter of the sixteenth century. Had he written in any other time and place, his conception of politics must have been significantly different.

ITALY AND THE POPE

In Italy the forces of a new commercial and industrial system had been especially destructive of older institutions, but, for reasons implicit in the political situation, the constructive forces were peculiarly neutralized and retarded. The free cities of northern Italy, upon which the imperial projects of the Hohenstaufen had been wrecked, had become political and economic anachronisms, unable to cope with a situation which required concentrated power, a citizen-soldiery, and a larger and more vigorous foreign policy. When Machiavelli wrote, Italy was divided among five larger states: the kingdom of Naples in the south, the duchy of Milan in the north-west, the aristocratic republic of Venice in the north-east, and the republic of Florence and the Papal State in the centre. The downfall of the Florentine republic in 1512—which produced in Machiavelli's life the enforced period of idleness responsible for his political writing—illustrated the fate awaiting a form of government which was incapable of coping with the political forces of its day. The tendency towards concentration was illustrated also in the recreating of the Papal State after its decay during the Schism. The popes of Machiavelli's time, scoundrels and profligates though they often were, succeeded in making their state the best consolidated and the most permanent in Italy. Nothing, perhaps, is more significant of the change in European politics than this, which transformed the pope into one Italian ruler among others. The old ambition to stand as arbiter of all the quarrels of Christendom had dwindled to the more practicable, but more worldly, ambition to retain the sovereignty of central Italy.

But though consolidation had begun, it could not be completed, and this left Italy, as Machiavelli saw it, in a state of arrested political development. In Italy no power appeared great enough to unite the whole peninsula. Italians suffered all the degradation and oppression of tyranny with few of its compensations, and divisions among the tyrants left the land a prey to the French, the Spanish, and the Germans. Like most Italians of his day, Machiavelli held the church to be peculiarly responsible for this state of affairs. Too weak to unite Italy himself, the pope was still strong enough to prevent any other

ruler from doing so, while his international relationships made him a leader in the vicious policy of inviting foreign intervention. This is the reason for the bitter irony with which Machiavelli so frequently assails the church.

> We Italians then owe to the Church of Rome and to her priests our having become irreligious and bad; but we owe her a still greater debt, and one that will be the cause of our ruin, namely, that the Church has kept and still keeps our country divided. And certainly a country can never be united and happy, except when it obeys wholly one government, whether a republic or a monarchy, as is the case in France and in Spain; and the sole cause why Italy is not in the same condition, and is not governed by either one republic or one sovereign, is the Church. . . . The Church, then, not having been powerful enough to be able to master all Italy, nor having permitted any other power to do so, has been the cause why Italy has never been able to unite under one head, but has always remained under a number of princes and lords, which occasioned her so many dissensions and so much weakness that she became a prey not only to the powerful barbarians, but of whoever chose to assail her.[1]

Italian society and politics, as Machiavelli conceived them and as historians have for the most part agreed to picture them, were peculiarly illustrative of a state of institutional decay. It was a society intellectually brilliant and artistically creative, more emancipated than any in Europe from the trammels of authority, and prepared to face the world in a coolly rational and empirical spirit, yet it was a prey to the worst political corruption and moral degradation. The older civic institutions were dead; medieval ideas like the church and the empire which, in Dante's day, could still awaken a noble enthusiasm, were no longer even memories. Cruelty and murder had become normal agencies of government; good faith and truthfulness had become childish scruples to which an enlightened man would hardly give lip-service; force and craft had become the keys to success; profligacy and debauchery had become too frequent to need comment; and selfishness, naked and unadorned, need only succeed in order to supply its own justification. It was a period truly called the age of "bastards and adventurers," a society created as if to illustrate Aristotle's saying that "man, when separated from law and justice, is the worst of all animals." Machiavelli is, therefore, in a peculiar sense, the political theorist of the 'masterless man,' of a society in which the individual stands alone, with no motives and no interests except those supplied by his own egoism. In this he represents a phase of all modern society, but he represents it in the exaggerated form appropriate to Italy in the sixteenth century.

1 *Discourses on the First Ten Books of Titus Livius*, I, 12; trans. by C. E. Detmold, *The Historical, Political, and Diplomatic Writings of Niccolo Machiavelli*, 4 vols., Boston and New York, 1891.

MACHIAVELLI'S INTEREST

His most important political works were the *Prince* and the *Discourses on the First Ten Books of Titus Livius*, both begun and largely finished in 1513. The treatment of government in the two books is significantly different; some writers, following Rousseau, have believed them to be inconsistent with each other. In fact, this seems not to be the case, especially if the circumstances attending the composition of the *Prince* be taken into account, but it is unfortunate that most readers have known Machiavelli through this work. Both books present aspects of the same subject—the causes of the rise and decline of states and the means by which statesmen can make them permanent. The *Prince* deals with monarchies or absolute governments, and the *Discourses* mainly with the expansion of the Roman Republic. This corresponds to the twofold classification of states which Machiavelli makes at the beginning of the *Prince*. The *Prince* was a selection of the author's views for a special purpose and was occasioned, it is true, by a desire to obtain employment under the Medici, but the latter fact did not produce the opinions expressed in it. As Villari says, anyone acquainted with the *Discourses* and knowing the author's special purpose could have forecast nearly everything in the *Prince*. Both books show equally the qualities for which Machiavelli has been especially known, such as indifference to the use of immoral means for political purposes and the belief that government depends largely on force and craft. What does not appear in the *Prince* is his genuine enthusiasm for popular government of the sort exemplified in the Roman Republic, but which he believed to be impracticable in Italy when he wrote.

Machiavelli's political writings belong less to political theory than to the class of diplomatic literature, of which a great volume was produced by Italian writers of his age. Never has the game of diplomacy been played more fiercely than in the relations between the Italian states of Machiavelli's day. Never have the shifts and turns of negotiations counted for more than between these rulers—adventurers all—who relied for their success about equally upon skilful gambling and the crassest force. Diplomatic writing, and Machiavelli's works as well, have characteristic merits and defects. There is the shrewdest insight into points of weakness and strength in a political situation, the clearest and coolest judgment of the resources and temperament of an opponent, the most objective estimate of the limitations of a policy, the soundest common sense in forecasting the logic of events, and the outcome of a course of action. It is such qualities as these, possessed in a superlative degree, that made Machiavelli a favourite writer for diplomats from his own day to the present. But diplomatic writing is peculiarly likely to exaggerate the importance of the game for its own sake and to

minimize the purposes for which the game is presumably played. It naturally assumes that politics is an end in itself.

This is Machiavelli's most conspicuous quality. He writes almost wholly of the mechanics of government, of the means by which states may be made strong, of the policies by which they can expand their power, and of the errors that lead to their decay or overthrow. Political and military measures are almost the sole objects of his interest, and he divorces these almost wholly from religious, moral, and social considerations, except as the latter affect political expedients. The purpose of politics is to preserve and increase political power itself, and the standard by which he judges it is its success in doing this. Whether a policy is cruel or faithless or lawless he treats for the most part as a matter of indifference, though he is well aware that such qualities may react upon its political success. He often discusses the advantages of immorality skilfully used to gain a ruler's ends, and it is this which is mainly responsible for his evil repute. But for the most part he is not so much immoral as non-moral. He simply abstracts politics from other considerations and writes of it as if it were an end in itself.

MORAL INDIFFERENCE

The closest analogue to Machiavelli's separation of political expedience from morality is probably to be found in some parts of Aristotle's *Politics*, where Aristotle considers the preservation of states without reference to their goodness or badness. It is not at all certain, however, that Machiavelli took these passages as his model. It is not likely that he was conscious of following anyone, though there may possibly have been a connection between his secularism and the naturalistic Aristotelianism that produced the *Defensor pacis* two centuries before. Apart from a common hatred of the papacy as the cause of Italian disunion, which Machiavelli shared with Marsilio, the two men had substantially similar ideas about the political utility which religion ought to have as its secular consequence.[1] Machiavelli's secularism, however, goes much beyond Marsilio's, and is free from all the sophistications imposed by the twofold truth. Marsilio defended the autonomy of reason by making Christian morals other-worldly; Machiavelli condemns them because they are other-worldly. The Christian virtues he believed to be servile in their effects on character, and he contrasted Christianity unfavourably in this respect with the more virile religions of antiquity.

> Our religion places the supreme happiness in humility, lowliness, and a contempt for worldly objects, whilst the other, on the contrary, places the

[1] Previté-Orton has noted several important parallels in his notes; see his edition of the *Defensor*, Index B, *s.v.* Machiavelli. Cf. the passage about Italy in II, xxvi, 20, and *Prince*, ch. xxvi.

> supreme good in grandeur of soul, strength of body, and all such other qualities as render men formidable. . . . These principles seem to me to have made men feeble, and caused them to become an easy prey to evil-minded men, who can control them more securely, seeing that the great body of men, for the sake of gaining Paradise, are more disposed to endure injuries than to avenge them.[1]

As this passage suggests, Machiavelli was not indifferent to the effects which morals and religion, in the masses of mankind, have upon social and political life. He sanctioned the use of immoral means by rulers to gain an end, but he never doubted that moral corruption in a people makes good government impossible. He had nothing but admiration for the civic virtues of the ancient Romans and of the Swiss in his own day, and he believed that these grew out of purity in the family, independence and sturdiness in private life, simplicity and frugality of manners, and loyalty and trustworthiness in performing public duties. But this does not mean that the ruler must believe in the religion of his subjects or practise their virtues. Machiavelli was by no means blind to imponderable forces in politics, but the imponderables were still for him merely forces. An army fights with morale as truly as with guns, and the wise ruler sees that both are of the best quality. Machiavelli offers an extreme example of a double standard of morals, one for the ruler and another for the private citizen. The first is judged by success in keeping and increasing his power; the second, by the strength which his conduct imparts to the social group. Since the ruler is outside the group, or at least in a very special relation to it, he is above the morality to be enforced within the group.

Machiavelli's indifference to morality has sometimes been described as an example of scientific detachment,[2] but this account of the matter seems far-fetched. Machiavelli was not detached; he was merely interested in a single end, political power, and indifferent to all others. He never hesitated to express sweeping judgments of rulers who allowed their states to grow weak. Moreover, he was in no definite sense scientific, though his judgment was formed empirically, by the observation of rulers that he had himself known or by studying historical examples. But his empiricism was that of common sense or of shrewd practical foresight rather than an inductive empiricism controlled by the wish to test theories or general principles. In the same way it is misleading to say, as has been done, that Machiavelli followed an 'historical' method, because his examples were often drawn from the past. He used history exactly as he used his own observation to illustrate or support a conclusion that he had reached quite without reference to history. In one sense he was very unhistorical. He asserted explicitly that human nature is always and everywhere the

[1] *Discourses* II, 2. [2] Sir Frederick Pollock, *History of the Science of Politics* (1911), p. 43.

same, and for this reason he took examples where he found them. His method, in so far as he had one, was observation guided by shrewdness and common sense. The most telling description of his accomplishment is that given by Janet, that he translated politics into the vernacular.

Machiavelli's political theories were not developed in a systematic manner, but in the form of remarks upon particular situations. Behind them, or implicit in them, however, there often was a consistent point of view, which might be developed into a political theory and, in fact, was so developed after his time. Machiavelli was not much interested in philosophy and not much inclined to generalize beyond maxims useful to a statesman. He sometimes merely stated his principles, often merely took them for granted; practically never did he try to give any proof of them. At the risk of giving a more unified impression than his works warrant, it will be useful to draw his scattered generalizations together, especially since later thinkers did erect into a systematic theory suggestions drawn from him.

UNIVERSAL EGOISM

Behind nearly everything that Machiavelli said about political policy was the assumption that human nature is essentially selfish, and that the effective motives on which a statesman must rely are egoistic, such as the desire for security in the masses and the desire for power in rulers. Government is really founded upon the weakness and insufficiency of the individual, who is unable to protect himself against the aggression of other individuals unless supported by the power of the state. Human nature, moreover, is profoundly aggressive and acquisitive; men aim to keep what they have and to acquire more. Neither in power nor in possessions is there any normal limit to human desires, while both power and possessions are always, in fact, limited by natural scarcity. Accordingly, men are always in a condition of strife and competition which threatens open anarchy unless restrained by the force behind the law, while the power of the ruler is built upon the very imminence of anarchy and the fact that security is possible only when government is strong. Machiavelli constantly takes this conception of government for granted, though he nowhere develops it into a general psychological theory of behaviour. He frequently remarks, however, that men are in general bad, and that the wise ruler will construct his policies on this assumption. In particular he insists that successful government must aim at security of property and of life before everything else, since these are the most universal desires in human nature. Hence his cynical remark that a man more readily forgives the murder of his father than the confiscation of his patrimony. The prudent ruler may kill, but he will not plunder. When completed

by a systematic psychology to explain and justify it, this phase of Machiavelli became the political philosophy of Hobbes.

Machiavelli, however, is not so much concerned with badness or egoism as a general human motive as with its prevalence in Italy as a symptom of social decadence. Italy stands to him as the example of a corrupt society, with no such partial mitigation as the monarchy brings in France and Spain.

> In fact it is vain to look for anything good from those countries which we see nowadays so corrupt, as is the case above all others with Italy. France and Spain also have their share of corruption, and if we do not see so many disorders and troubles in those countries as is the case daily in Italy, it is not so much owing to the goodness of their people . . . as to the fact that they have each a king who keeps them united. . . .[1]

The problem in Italy, then, is to found a state in a corrupt society, and Machiavelli was convinced that, in such circumstances, no effective government was possible except absolute monarchy. This explains why he was at once an enthusiastic admirer of the Roman Republic and an advocate of despotism. By corruption Machiavelli means in general that decay of private virtue and civic probity and devotion that renders popular government impossible. It includes all sorts of licence and violence, great inequalities of wealth and power, the destruction of peace and justice, the growth of disorderly ambition, disunion, lawlessness, dishonesty, and contempt for religion. A republican form of government he believed still to be possible in Switzerland and some parts of Germany, where a vigorous civic life had been preserved, but not in Italy. When the necessary virtues have decayed, there is no possibility either of restoring them or of carrying on orderly government without them, except by despotic power.

Apart from moral corruption, however, the natural aggressiveness of human nature makes struggle and competition a normal feature of every society. This explains, on the one hand, the defeat that dogs the steps of every government: "Men always commit the error of not knowing when to limit their hopes." But on the other hand, it explains also the stability of a healthy society in which opposing interests are held in equilibrium. The rivalry of patricians and plebeians in Rome Machiavelli regarded as the secret of Roman strength. From it was born the independence and sturdiness of character that supported the greatness of Rome. When directed by wise rulers, having great but lawful authority, the virility that made turbulence possible became a chief reason why the Romans were a war-like, conquering people. For this reason Machiavelli stated again the ancient theory of the mixed or balanced constitution. Not very appropriately, it must be confessed, he reproduced at the beginning of the *Discourses* almost word for word the theory of the constitutional cycle from the sixth

[1] *Discourses*, I, 55.

book of Polybius' *Histories*. The balance which he had in mind, however, was not political but social or economic—an equilibrium of competing interests held in check by a powerful sovereign. In this respect, also, a systematic statement of Machiavelli's philosophy needed the conception of sovereign power which Bodin and Hobbes added to it.

THE OMNIPOTENT LEGISLATOR

A second general principle that is continually assumed by Machiavelli is the supreme importance in society of the lawgiver. A successful state must be founded by a single man, and the laws and government which he creates determine the national character of his people. Moral and civic virtue grows out of law, and when a society has become corrupt it can never reform itself, but must be taken in hand by one lawgiver, who can restore it to the healthy principles set up by its founder.

> But we must assume, as a general rule, that it never or rarely happens that a republic or monarchy is well constituted, or its old institutions entirely reformed, unless it is done by only one individual; it is even necessary that he whose mind has conceived such a constitution should be alone in carrying it into effect.[1]

Machiavelli was not thinking only, or even mainly, of political organization, but of the whole moral and social constitution of a people, which he conceived to grow out of the law and from the wisdom and foresight of the lawgiver. There is practically no limit to what a statesman can do, provided he understands the rules of his art. He can tear down old states and build new, change forms of government, transplant populations, and build new virtues into the characters of his subjects. If a ruler lacks soldiers, he says, he need blame no one but himself, for he should have adopted measures to correct the cowardice and effeminacy of his people. The lawgiver is the architect not only of the state but of society as well, with all its moral, religious, and economic institutions.

This exaggerated notion of what a ruler and a state can do had several causes. In part it merely reproduced the ancient myth of the lawgiver which Machiavelli found in writers like Cicero and Polybius. In part it reflected his understanding of the problem that confronted a ruler amid the corruption of sixteenth-century Italy. By sheer political genius a successful ruler had to create a military power strong enough to overcome the disorderly little cities and principalities, and in the end to evolve a new public spirit and civic loyalty. All the circumstances of his time conspired to make him see in an absolute ruler the arbiter of a nation's fate. But beside these historical circumstances, the logic of his own political philosophy weighed heavily in the same direction. For if human individuals are by nature radically egoistic,

[1] *Discourses*, I, 9.

the state and the force behind the law must be the only power that holds society together; moral obligations must, in the end, be derived from law and government. In this respect also, it was Hobbes who gave a systematic statement of what Machiavelli suggested.

From this point of view it is easier to understand the double standard of conduct for the statesman and the private citizen which forms the main connotation of what is called 'Machiavellism.' The ruler, as the creator of the state, is not only outside the law, but if law enacts morals, he is outside morality as well. There is no standard to judge his acts except the success of his political expedients for enlarging and perpetuating the power of his state. The frankness with which Machiavelli accepted this conclusion and included it in his advice to rulers is the chief reason for the evil reputation of the *Prince*, though the *Discourses* were really no better. He openly sanctioned the use of cruelty, perfidy, murder, or any other means, provided only they are used with sufficient intelligence and secrecy to reach their ends.

> It is well that, when the act accuses him, the result should excuse him; and when the result is good, as in the case of Romulus [his murder of his brother], it will always absolve him from blame. For he is to be reprehended who commits violence for the purpose of destroying, and not he who employs it for beneficent purposes.[1]
>
> For the manner in which men live is so different from the way in which they ought to live, that he who leaves the common course for that which he ought to follow will find that it leads him to ruin rather than to safety. . . . A prince, therefore, who desires to maintain himself must learn to be not always good, but to be so or not as necessity may require. . . . Nor need he care about incurring censure for such vices, without which the preservation of his state may be difficult. For, all things considered, it will be found that some things that seem like virtue will lead you to ruin if you follow them; whilst others, that apparently are vices, will, if followed, result in your safety and well-being.[2]

Machiavelli's prince, the perfect embodiment of shrewdness and self-control, who makes capital alike of his virtues and his vices, was little more than an idealized picture of the Italian tyrant of the sixteenth century. He is a true, if exaggerated, picture of the kind of man that the age of the despots threw into the forefront of political life. Though the most extreme examples occurred in Italy, Ferdinand of Spain, Louis XI of France, and Henry VIII of England, were of the same type. There is no doubt that Machiavelli had a temperamental admiration for the resourceful, if unscrupulous, type of ruler and a deep distrust of half-way measures in politics, which he rightly believed to be due to weakness more often than to scruple. His admiration for this type sometimes betrayed him into serious superficialities of judgment, as when he held up the unspeakable Cesare Borgia as the model of a wise prince and asserted that his political failure was due to nothing but unavoidable accident.

[1] *Discourses*, I, 9. [2] *Prince*, ch. xv.

Machiavelli never erected his belief in the omnipotent lawgiver into a general theory of political absolutism, as Hobbes did later. His judgment was swayed by two admirations—for the resourceful despot and for the free, self-governing people—which were not consistent. He patched the two together, rather precariously, as the theories respectively of founding a state and of preserving it after it is founded. In more modern terms it might be said that he had one theory for revolutions and another for government. Hence he recommended despotism only in two somewhat special cases, the making of a state and the reforming of a corrupt state. Once founded, a state can be made permanent only if the people are admitted to some share in the government and if the prince conducts the ordinary business of the state in accordance with law and with a due regard for the property and rights of his subjects. Despotic violence is a powerful political medicine, needed in corrupt states and for special contingencies in all states, but still a poison which must be used with the greatest caution.

REPUBLICANISM AND NATIONALISM

There was nothing in Machiavelli's account of the absolute monarchy corresponding to his obviously sincere enthusiasm for the liberty and self-government of the Roman Republic. The preservation of the state, as distinct from its founding, depends upon the excellence of its law, for this is the source of all the civic virtues of its citizens. Even in a monarchy the prime condition of stable government is that it should be regulated by law. Thus Machiavelli insisted upon the need for legal remedies against official abuses in order to prevent illegal violence, and pointed out the political dangers of lawlessness in rulers and the folly of vexatious and harassing policies. In particular, the prudent ruler will abstain from the property and the women of his subjects, since these are the matters on which men are most easily stirred to resistance. He favoured a gentle rule wherever possible and the use of severity only in moderation. He said explicitly that government is more stable where it is shared by the many, and he preferred election to heredity as a mode of choosing rulers. He spoke for a general freedom to propose measures for the public good and for liberty of discussion, in order that both sides of every question may be heard before a decision is reached. He believed that the people must be independent and strong, because there is no way to make them warlike without giving them the means of rebellion. Finally, he had a high opinion both of the virtue and the judgment of an uncorrupted people as compared with those of the prince. They are unfitted to take a long view of intricate policies, but in matters that fall within their understanding, such as estimating the character of a magistrate, they are both more prudent and more sound in their judgment than a prince. Despite the

cynicism of Machiavelli's political judgments, there is no mistaking his esteem for liberal and lawful government. It is this which explains the admiration for him felt by a constitutionalist like Harrington.

Closely related to his favourable judgment of popular government where possible, and of monarchy where necessary, is his exceedingly low opinion of aristocracy and the nobility. More than any other thinker of his time he perceived that the interests of the nobility are antagonistic both to those of the monarchy and of the middle class, and that orderly government required their suppression or extirpation. These 'gentlemen,' who live idly on the proceeds of their wealth without giving any useful service, are "everywhere enemies of all civil government."

> The only way to establish any kind of order there is to found a monarchical government; for where the body of the people is so thoroughly corrupt that the laws are powerless for restraint, it becomes necessary to establish some superior power which, with a royal hand, and with full and absolute powers, may put a curb upon the excessive ambition and corruption of the powerful.[1]

The only thing which gave plausibility to Machiavelli's admiration for Cesare Borgia is the fact that, despite all his crimes, Cesare did give better government to the Romagna than the horde of robber barons whom he displaced. Machiavelli set his prince the task of fighting the devil with fire, but there was at least a largeness of aim and breadth of political conception in the prince's villainy which were lacking in the equal villainy of the prince's opponents.

Side by side with Machiavelli's dislike of the nobility stands his hatred of mercenary soldiers. Here again he had in view one of the most serious causes of lawlessness in Italy, the bands of hired ruffians who were ready to fight for whomsoever would offer the largest pay, who were faithful to no one, and who were often more dangerous to their employer than to his enemies. Such professional soldiers had almost wholly displaced the older citizen-soldiers of the free cities, and while they were able to terrorize Italy, they had proved their incompetence against better organized and more loyal troops from France. Machiavelli had a clear perception of the advantage which France gained from nationalizing her army, and consequently he was never tired of urging that the training and equipment of a citizen-army is the first need of a state. As he knew from his own observation, mercenary troops and foreign auxiliaries are alike ruinous to the ruler who must depend upon them. They exhaust his treasury and almost invariably fail him in a pinch. The art of war is, therefore, the primary concern of a ruler, the condition of success in all his ventures. Before everything else he must aim to possess a strong force of his own citizens, well equipped and well disciplined, and attached to his interests by

[1] *Discourses*, I, 55.

ties of loyalty to the state. Machiavelli would have all able-bodied citizens between the ages of seventeen and forty subject to military training. With such a force the ruler can maintain his power and extend the limits of the state; without it he becomes a prey to civil strife within and to the ambition of neighbouring princes.

Behind Machiavelli's belief in a citizen-army and his hatred of the nobility stood the one sentiment which mitigated the cynicism of his political opinions. This was national patriotism and a desire for the unification of Italy and her preservation from internal disorders and foreign invaders. He was perfectly frank in asserting that duty to one's country overrides all other duties and all scruples.

> For where the very safety of the country depends upon the resolution to be taken, no considerations of justice or injustice, humanity or cruelty, nor of glory or of shame, should be allowed to prevail. But putting all other considerations aside, the only question should be, What course will save the life and liberty of the country?[1]

This was the sentiment behind his idealization of absolute and ruthless power, as appears in the eloquent chapter which concludes the *Prince*. Machiavelli hoped that somewhere among the tyrants of Italy, perhaps in the house of Medici, there might arise a prince with a vision broad enough to see a united Italy and bold enough to make the vision real.

> And if . . . it was necessary for the purpose of displaying the virtue of Moses that the people of Israel should be held in bondage in Egypt; and that the Persians should be oppressed by the Medes, so as to bring to light the greatness and courage of Cyrus; and that the Athenians should be dispersed for the purpose of illustrating the excellence of Theseus; so at present, for the purpose of making manifest the virtues of one Italian spirit, it was necessary that Italy should have been brought to her present condition of being in a worse bondage than that of the Jews, more enslaved than the Persians, more scattered than the Athenians, without a head, without order, vanquished and despoiled, lacerated, overrun by her enemies, and subjected to every kind of devastation.[2]

But while the hope of peace and unity for Italy was a real motive of Machiavelli's thought, it was with him rather a sentiment than a definite plan. Aside from the belief that it must come under the leadership of an absolute monarch, as he saw national unity being achieved in France and Spain, he had nothing that could be called a policy for Italian unification. He thought of it rather as a distant hope, without which the happiness and prosperity of the country could never be attained; he never really conceived government on a national scale. The government which evoked his sincerest enthusiasm was an expanding city-state such as Rome, a city-state which, to be sure, should follow a far-sighted policy in attracting and retaining the support of its allies, but which in Machiavelli's conception never rose to the height of

[1] *Discourses*, III, 41.

[2] *Prince*, ch. xxvi.

establishing a nation-wide citizenship. Thus it happens that the concluding chapter of the *Prince*, though doubtless sincere, is the exception rather than the rule in his usually sordid advice to princes.

INSIGHT AND DEFICIENCIES

The character of Machiavelli and the true meaning of his philosophy have been one of the enigmas of modern history. He has been represented as an utter cynic, an impassioned patriot, an ardent nationalist, a political Jesuit, a convinced democrat, and an unscrupulous seeker after the favour of despots. In each of these views, incompatible as they are, there is probably an element of truth. What is emphatically not true is that any one of them gives a complete picture either of Machiavelli or his thought. His thought was that of a true empiric, the result of a wide range of political observation and a still wider range of reading in political history; it has in it no general system to which he tried to relate all his observations. In the same way his character must have been complex. His writings show, it is true, a surprising concentration of interest. He writes about nothing and thinks about nothing except politics, statecraft, and the art of war. For deeper-lying social questions, economic or religious, he had no interest except as they bore upon politics. He was, perhaps, too practical to be philosophically profound, but in politics pure and simple he had of all his contemporaries the greatest breadth of view and the clearest insight into the general tendency of European evolution.

> Living at a time when the old political order in Europe was collapsing and new problems both in state and in society were arising with dazzling rapidity, he endeavoured to interpret the logical meaning of events, to forecast the inevitable issues, and to elicit and formulate the rules which, destined hence forth to dominate political action, were then taking shape among the fresh-forming conditions of national life.[1]

Machiavelli more than any other political thinker created the meaning that has been attached to the state in modern political usage. Even the word itself, as the name of a sovereign political body, appears to have been made current in the modern languages largely by his writings. The state as an organized force, supreme in its own territory and pursuing a conscious policy of aggrandizement in its relations with other states, became not only the typical modern political institution but increasingly the most powerful institution in modern society. To it more and more fell the right and the obligation to regulate and control all the other institutions of society, and to direct them on lines overtly set by the interests of the state itself. The part that the state, thus conceived, has played in modern politics is an index of the clearness with which Machiavelli grasped the drift of political evolution.

[1] L. A. Burd, in the *Cambridge Modern History*, Vol. I (1903), p. 200.

Yet it would be hard to say whether the intense brilliance that his genius cast on the statecraft of the despots and of the national states which followed them did not hide as much as it revealed. A philosophy which attributes the successes and failures of politics chiefly to the astuteness or the ineptitude of statesmen is bound to be superficial. Machiavelli thought of moral, religious, and economic factors in society as forces which a clever politician can turn to the advantage of the state, or which he can even produce for the sake of the state, and this not only reverses a sane order of values but also the usual order of causal efficacy. At all events it is certain that Machiavelli misrepresented completely the state of European thought at the beginning of the sixteenth century, except among a few disillusioned Italians. His two books were written within ten years of the day on which Martin Luther nailed his theses to the door of the church in Wittenberg, and it was the effect of the Protestant Reformation to involve politics and political thought more closely with religion and with differences of religious faith than had been the case during most of the Middle Ages. Machiavelli's indifference to the truth of religion became, in the end, a common characteristic of modern thought, but it was emphatically not true of the two centuries after he wrote. In this sense his philosophy was both narrowly local and narrowly dated. Had he written in any country except Italy, or had he written in Italy after the beginning of the Reformation, and still more after the beginning of the Counter Reformation in the Roman Church, it is impossible to suppose that he would have treated religion as he did.

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CHAPTER XVIII

THE EARLY PROTESTANT REFORMERS

THE Protestant Reformation mixed political theory with differences of religious belief and with questions of theological dogma more closely than had been the case even in the Middle Ages. There is, however, no simple formula for this relationship. Everywhere political theories were defended with theological arguments and political alliances were made in the name of religious truth. Nowhere was there any religious party, Protestant or Catholic, that really related its political convictions with the theology which it professed. The reasons for this are evident. Catholics and Protestants alike, and every subdivision of Protestants, drew upon the same Christian heritage and the same body of European political experience. The scholars of all churches had the same stock of ideas, a rich and varied body of thought extending continuously back to the eleventh century, and embodying a tradition which carried it back to antiquity. The logical dependence of any part of this political tradition upon any particular theological system was loose, as it had always been in the Middle Ages. Protestants could select from it, as Catholics had always done, according to their purposes and circumstances. Consequently the Reformation produced no such thing as a Protestant political theory, any more than the Middle Ages produced a Catholic one, nor, for that matter, did it produce even an Anglican or a Presbyterian or a Lutheran theory that had any close dependence upon the theologies of these Protestant churches. Given time and a stable relationship to government, any group could select a more or less coherent political doctrine, suitable to its situation and fairly characteristic of its members' beliefs (though always with individual exceptions). But similarity of political conviction depended more on circumstances than on theology, and political differences resulted rather from the varying situations in which the churches found themselves than from theological differences. Thus an Anglican, a Lutheran, and a Gallican Catholic might agree much better about the divine right of kings than about their theology, and also they might agree to regard both Calvinists and Jesuits as public enemies. A classification of political theories would never correspond with a classification of religious denominations, though it is true that religious groups did form typical bodies of theory.

In no case did the mere breaking of relations with the Roman Church solve for Protestants any of the intrinsic difficulties that had arisen in

the Middle Ages over clerical interference in politics or secular interference in religion. It changed their form, but at the same time it intensified them, because, for the time being, religion was more dependent upon and involved with politics than ever before. Moreover, the relation of church and state varied with the political and religious situation in each country. Current conceptions of the church and of religion changed much more slowly than the facts warranted, and the results achieved were never in any great degree like those intended. Thus the unity of the church was permanently broken, so that instead of one church there was a growing number of churches, but it was a century before even liberal Protestants could contemplate this as a fact. The conception of a church as the guardian of the only revealed truth remained, and the fact that Protestantism replaced the authority of the hierarchy with the infallibility of Scripture made it no less authoritarian. Every one assumed, with what now seems incredible naïveté, that agreement about religious truth was possible or even certain, if only the blindness, or more usually the wickedness, of their opponents could be removed. Except in the case of a mere handful of writers there was no question of religious toleration. The belief was general on the side of churchmen that pure doctrine ought to be maintained by public authority, and on the side of statesmen that unity of religion was an indispensable condition of public order. Where the government of the Roman Church was broken the maintenance of the faith became a charge on the civil authorities, because no one else could do it. In effect, the decision as to what is pure doctrine passed largely to secular rulers. When this was honestly attempted, government became charged with the impossible task of deciding what religious truth is, and when it was not honestly done, politicians were given an infinity of troubled water to fish in.

PASSIVE OBEDIENCE AND THE RIGHT TO RESIST

On the whole, therefore, the Reformation, together with the sectarian controversies to which it gave rise, accelerated the tendency, already in existence, to increase and consolidate the power of the monarchies. The failure of the church to reform itself by a General Council meant that no successful reform was possible unless it could enlist the support, or even the force, of secular rulers. Martin Luther early discovered that the success of reform in Germany depended upon obtaining the help of the princes. In England the Reformation was carried through by the already well-nigh absolute power of Henry VIII, and its immediate consequence was to strengthen royal power still further. In Europe generally, as controversies spread, the king was the one point around which national unity could rally. This was notably true in France in the latter part of the sixteenth century. Without much

exaggeration it may be said that everywhere success went to the religious party that happened to be allied with a strong internal policy. In England and northern Germany Protestantism was on the side of the princes. In France and Spain it became allied with particularist movements of the nobility, the provinces, or the cities, with the result that the national religion remained Catholic. Thus, whoever lost, the kings won, and the absolute monarchy, which the Reformation did not originate and which was no more naturally related to one form of religious belief than another, was in the first instance its chief political beneficiary.

This effect was increased by the fact that the more powerful reforming groups continually felt obliged to fight their war on two fronts. They had, of course, to contend against the pope, and for this purpose they used all the principles and arguments that had become common property in the two centuries since William of Occam. But leading Protestant reformers, even more than Catholics, felt compelled to distinguish themselves sharply from the obscurer and more radical movements of religious and social reform which composed the 'lunatic fringe' of Protestantism. Movements of this sort, which had, no doubt, been simmering under the surface for centuries, immediately came to light when the stable order began to be agitated. Anabaptism and the peasant revolts were feared and hated by the rising bourgeoisie of the sixteenth century more fiercely and more nervously than similar proletarian disturbances of a later day. They were suppressed with savage cruelty, which received the blessing of both Luther and Calvin. Not for nothing did monarchy receive the support of the growing middle class, but for this reason also the religious reformers were thrown bodily into the arms of the princes. Thus the Reformation joined with economic forces already in existence to make royal government, invested with absolute power at home and with a free hand abroad, the typical form of European state.

At the same time, however, Protestantism produced another result which, in the long run, tended to work in an opposite direction. In most parts of northern Europe it produced relatively strong religious minorities, bodies too numerous to be coerced without endangering public order and quite as determined as the party in power to gain for its own faith the benefits of legal establishment. Every such body was, for obvious reasons, a potential source of disorder, and every religious difference was, at the same time, a political issue. Only slowly and under the compulsion of circumstances that permitted no other solution did a policy of religious toleration emerge, as it was discovered that a common political loyalty was possible to people of different religions. In the meantime the amalgamation of religion and politics was complete. The upholding of rulers became a primary article of religious faith, while defence of a religious creed was felt to be, and often in

fact was, an attack upon a ruler of a different belief. The cause of religious reform, at least on the part of a dissenting and disestablished group, involved not only a right to disagree with the government in power, but possibly also the right to resist in the interests of what the dissenters honestly believed to be true religion. In the fourteenth and fifteenth centuries reformers had claimed the right to resist an heretical pope. In the sixteenth century they had to claim the right to resist heretical kings, who now, rather than the pope, were "laying waste the church." The issue was still religious reform, but it was a political at least as much as a religious issue.

For this reason the most controverted point in political philosophy became the question whether subjects have the right to resist their rulers—of course for supposedly good reasons, usually concerned with the maintenance of sound Christian doctrine—or whether they owe a duty of passive obedience such that resistance is in all cases wrong. The latter view became the modernized theory of monarchical divine right, since passive obedience to any form of government except a monarchy was an academic question. The right to resist, on the other hand, could best be defended on the hypothesis that kings derive their power from the people and may be called to account, for sufficient cause, by them. These two types of theory, therefore, came to prevail in the sixteenth century, and they came to be regarded as antithetical to one another, as, indeed, they were in the consequences that each was now held to entail. Both were for the time being equally theological, though it proved possible to detach the theory of popular rights from theology more easily than divine right.

Obviously neither theory was in itself new, though both were more or less new in respect to the uses to which they were put. The belief that civic obedience was a Christian virtue enjoined by God was as old as St Paul. No Christian had ever doubted that in some sense the powers that be are of God, and in itself this implied no denial of the view that in some sense power comes also from the people. An occasional medieval writer, following the tradition of Gregory the Great, could approximate the doctrine of passive obedience, though it was not a common belief, as it came to be in the sixteenth and seventeenth centuries. On the other hand, the general theory that political authority comes from the people had not been in any specific sense a defence of the right to resist. The specialization of the two theories, and the setting up of one as monarchical and the other as anti-monarchical, came about in the course of the sixteenth century.

MARTIN LUTHER

The interesting point to be observed about the first reformers is that both Luther and Calvin stood on substantially identical ground relative

to the fundamental moral issue. That is to say, they both held the view that resistance to rulers is in all circumstances wicked. This fact is striking in view of the contrast between the later history of the Lutheran and Calvinist churches. Both in Scotland and France the Calvinists were largely responsible for developing and spreading the theory that political resistance is justified as a means of religious reform. It was John Knox in Scotland, the leader of a reform which must succeed by popular force against a court-party that was immovably Catholic, who was in the first instance responsible for this important departure from the teaching of Calvin himself. The circumstances in which French Calvinists found themselves contributed to a similar end. On the other hand, the state of affairs in northern Germany tended to make passive obedience a permanent part of the teaching of the Lutheran Church.

This result has in it an element of historical irony. On the ground of temperament Luther was much better fitted to sympathize with the cause of personal liberty than Calvin. By inclination he disliked coercion in matters of belief, and this was, in fact, the only view consistent with his idea of religious experience.

> Heresy can never be kept off by force. For that another tool is needed, and it is another quarrel and conflict than that of the sword. God's word must contend here. If that avail nothing, temporal power will never settle the matter, though it fill the world with blood.[1]

For the substance of religion lay for Luther in an inner experience, essentially mystical and incommunicable, while its outward forms and the ministrations of the clergy are merely an aid or a hindrance to attaining this goal. This was the meaning of his doctrines of justification by faith and "the priesthood of the Christian man." Obviously force is a wholly unsuitable means to foster religion so understood.

The antecedents of all Luther's ideas both about church and state had been current since the fourteenth century. The charges which he brought against the Roman Church—the luxury and evil living of the Roman court, the draining of German ecclesiastical revenues to Rome, the advancement of foreign prelates to preferment in German churches, the corruption of the papal judiciary, and the sale of indulgences—all referred to ancient grievances. The basis of his argument against the pope and the hierarchy was precisely the principle made current by the conciliar controversy, that the church is "the assembly of all believers in Christ upon earth." His attack upon the special privileges and immunities of the clergy followed the lines of the older anti-papal argument: differences of rank are merely administrative conveniences, and all classes of men, laymen as well as clergy, have callings useful to the community. Hence there is no reason why the clergy should not be answerable in temporal matters just as a layman is.

1 "On Secular Authority," 1523; *Werke*, Weimar ed., Vol. XI, p. 268.

> It is indeed past bearing that the spiritual law should esteem so highly the liberty, life, and property of the clergy, as if laymen were not as good spiritual Christians, or not equally members of the Church.[1]

Nevertheless, though Luther was temperamentally averse to religious coercion, and though he knew how to muster the priesthood of the Christian man against the Canon Law and against sacerdotalism, he wholly failed to envisage religion as able to dispense altogether with ecclesiastical discipline and authority. Reluctantly but none the less surely, he was led to the conclusion that heresy must be suppressed and that heretical teaching must be prevented. This conclusion, in spite of his inclination, led straight to coercion, and since the church had itself failed to correct its shortcomings, the hope for a purified church lay necessarily with secular rulers.

> But this would be the best, and also the only remedy remaining, if kings, princes, nobility, cities and communities themselves began and opened a way for reformation, so that the bishops and clergy, who now are afraid, would have reason to follow.[2]

Luther still adhered, it is true, to the ancient subterfuge that this is a temporary device to meet an emergency. Kings and princes, he says, are "bishops by necessity." But the practical upshot of his break with Rome was that secular government itself became the agent of reform and the effective arbiter of what reform should be. Nothing certainly was farther from his intention than to make government the judge of heresy, but in effect the power that enforces also defines. In the event, therefore, Luther helped to create a national church, something which he would certainly have regarded as a religious monstrosity.

Being thus dependent upon the princes for the success of reform, it became a foregone conclusion that he would adhere to the view that subjects owe their rulers a duty of passive obedience. Despite his own independence of judgment and his genuine love of religious liberty, the adoption of this point of view probably cost him little or nothing in respect to political convictions. He had, in fact, very little interest in politics except as events forced it on his attention, and by temperament he had great respect for civil authority; he was always markedly opposed to political pressure exerted through sedition and violence. Luther was no respecter of persons—he once said that rulers were "generally the biggest fools and worst knaves on earth"—but he had great respect for office as such and he had no confidence whatever in the masses of mankind.

> The princes of this world are gods, the common people are Satan, through whom God sometimes does what at other times he does directly through Satan, that is, makes rebellion as a punishment for the people's sins.
>
> I would rather suffer a prince doing wrong than a people doing right.[3]

[1] "To the Nobility of the German Nation," 1520 (trans. by Wace and Bucheim); *Werke*, Vol. VI, p. 410.
[2] "On Good Works," 1520 (trans. by W. A. Lambert); *Werke*, Vol. VI, p. 258.
[3] Quoted by Preserved Smith, *The Age of the Reformation* (1920), pp. 594 f.

As might be expected, his assertion of the duty of passive obedience was as strong as it could possibly be made:

> It is in no wise proper for anyone who would be a Christian to set himself up against his government, whether it act justly or unjustly.[1]
>
> There are no better works than to obey and serve all those who are set over us as superiors. For this reason, also, disobedience is a greater sin than murder, unchastity, theft, and dishonesty, and all that these may include.[1]

It is true that in this respect, as in others, Luther was not very consistent; his political opinions were too much governed by circumstances, and passive obedience was not without its difficulties. The very princes upon whom he depended were, in law at least, the subjects of the emperor. In this contingency he was driven to concede that the emperor might be resisted when he exceeded his imperial authority, which was clearly inconsistent with the general principle of passive obedience. However, the emperor's actual power over the princes was sufficiently shadowy so that the discrepancy had little practical importance. The weight of Luther's authority was quite definitely on the side of the doctrine that resistance to civil authority is in all circumstances morally wrong.

The result of Lutheranism was, on the whole, quite different from what Luther intended. Religiously more liberal, at least by inclination, than Calvin, he instituted the Lutheran state churches, dominated by political forces and almost, it might be said, branches of the state. The disruption of the universal church, the suppression of its monastic institutions and ecclesiastical corporations, and the abrogation of the Canon Law, removed the strongest checks upon secular power that had existed in the Middle Ages. Luther's stress upon the pure inwardness of religious experience inculcated an attitude of quietism and acquiescence towards worldly power. Religion, perhaps, gained in spirituality, but the state certainly gained in power. The submissiveness of the Lutheran churches, with a suggestion of mysticism, is sharply in contrast with the type of religion that developed in the Calvinist churches, where worldly activity and even worldly success figured as Christian duties.

CALVINISM AND THE POWER OF THE CHURCH

The Calvinist churches, in Holland, Scotland, and America, were the chief medium through which the justification of resistance was spread through western Europe. The difference depended in no way upon the primary intention of Calvin himself; in fact, he believed as emphatically in the duty of passive obedience as Luther, and in character he was far more legalist and authoritarian than the German reformer. In so far as the difference depended upon anything in

[1] "On Good Works" (trans. by W .A. Lambert); *Werke*, Vol. VI, p. 250.

Calvinist theology, the relation was indirect and might, under different circumstances, have had quite a different history. The crucial fact was that Calvinism, especially in France and Scotland, was in opposition to governments which it had practically no chance to convert or capture. For this reason chiefly Calvin's strong statements about the wickedness of resistance—natural enough in Geneva or so long as there was any hope of successful reform in France—were permitted by his followers to lapse, and were supplanted by teaching to exactly the opposite effect. John Knox's first steps in this direction took advantage of certain minor features of Calvin's teaching, but in themselves these features need never have led to any such change of position.

In its initial form, Calvinism not only included a condemnation of resistance but it lacked all leaning towards liberalism, constitutionalism, or representative principles. Where it had free range it developed characteristically into a theocracy, a kind of oligarchy maintained by an alliance of the clergy and the gentry from which the mass of the people was excluded and which was, in general, illiberal, oppressive, and reactionary. This was the nature of Calvin's own government in Geneva and of Puritan government in Massachusetts. It is true that Calvin objected on principle to a combination of state and church. It was on this ground that he broke with the reform of Zwingli at Zürich; and Calvinists generally, in England for example, continued to oppose such a union as resulted from admitting the king to be the head of a national church. The reason for this, however, was not a desire that the state should be free from clerical influence, but exactly the opposite. The church must be free to set its own standards of doctrine and morals and must have the full support of secular power in enforcing its discipline upon the recalcitrant. In Geneva excommunication deprived a citizen of the right to hold office, and in Massachusetts civic rights were limited to church members. In this respect Calvin's theory of the church was more in the spirit of extreme medieval ecclesiasticism than that held by nationalist Catholics. This is the reason why, to members of the national churches, Calvinist and Jesuit seemed to be two names for the same thing. Both stood for the primacy and independence of spiritual authority and the use of secular power to give effect to its judgments about orthodoxy and moral discipline. In practice, wherever possible, Calvinist government placed the two swords of Christian tradition in the church, and gave the direction of secular authority to the clergy rather than to secular rulers. The result was likely to be an intolerable rule of the saints: a meticulous regulation of the most private concerns founded upon universal espionage, with only a shadowy distinction between the maintenance of public order, the control of private morals, and the preservation of pure doctrine and worship.

With these practical results the characteristic doctrines of Calvinist

theology—election and fore-ordination—were not unconnected. The belief that men are saved not by their own merit but by the free act of God's grace might seem, on its face, to take the heart out of human effort. In fact, it had exactly the opposite effect. Calvinism lacked almost all trace of the mysticism and quietism which coloured Luther's idea of religious experience. Calvinist ethics was essentially an ethics of action. And, indeed, what better motive can there be to relentless activity—to steel the will and, if need be, to harden the heart—than a whole-souled conviction that a man is the chosen instrument of God's will? The Calvinist theory of predestination had nothing in common with the modern conception of universal causality. It was rather a belief in a cosmic system of quasi-military discipline. Thus Calvin exhausted the vocabulary of the Roman law to describe the sovereignty of God over the world and man. His morals taught not so much love of one's fellows as self-control, discipline, and respect for one's comrades in the battle of life, and these became, indeed, the sovereign moral virtues of Puritanism. It was this ethics which made the Calvinist churches the peculiarly militant parts of Protestantism. The dogma of election was ideally suited to the autocratic temper of the moral reformer who set himself to do battle against the unregenerate mass of mankind.

The doctrine of fore-ordination was the saints' mandate to rule. Lacking Luther's inclination towards mystical religious experience, Calvin in one sense put a higher value on secular institutions, which for Luther had only a worldly importance. This did not imply their independence of the church but the opposite; they are among the "external means of salvation." Hence the first duty of government is to maintain the pure worship of God and to uproot idolatry, sacrilege, blasphemy, and heresy. The emphasis in Calvin's enumeration of the objects for which secular power exists is enlightening.

> It is the purpose of temporal rule, so long as we live among men, to foster and support the external worship of God, to defend pure doctrine and the standing of the church, to conform our lives to human society, to mould our conduct to civil justice, to harmonize us with each other, and to preserve the common peace and tranquillity.[1]

It is true that Calvin reiterated the ancient Christian view that genuine belief cannot be compelled, but he put practically no limit upon the duty of the state to enforce outward conformity.

Calvinism, then, aimed primarily at censorship in morals and discipline in doctrine; it was notable for the power and influence which it gave to the clergy. The fact is the more striking because it went beyond other Protestant bodies in its opposition to ceremonialism and also because the Calvinist form of church government included representation of the congregation by lay elders. The latter practice was an

[1] *Institutes*, IV, xx, 2.

efficient means for applying censorship; it was not intended to introduce democracy into the church or to curb the influence of the clergy, nor did it do so in the earlier forms of Calvinism. In theory, the power of the church was supposed to lie in the whole Christian body, and at Geneva this power was exercised by a consistory which included the clergy and twelve lay elders chosen nominally by the town council. In reality the power of the clergy was practically unlimited, and the system was representative only in the vague sense that the consistory was supposed to exercise an authority belonging to the whole church. At the start the elders were in no specific sense representative of the congregation, as they later came to be when the Presbyterian churches adopted a plan of election, and there was no self-government in church-meeting such as appeared later in the Congregational bodies.

It is quite true, however, that Calvinism in Scotland did embody the principle of representation in a way that was politically important. The general assembly of the Scottish Church, together with its presbyteries and provincial synods, was far more representative of the nation generally than the Scottish parliament, which had remained feudal in its make-up. The reformation in Scotland was substantially a popular and national movement directed against a Catholic court and nobility closely allied with France, but this was not because Calvinism in its original form stood either for popular rights or representation. Politically it had no such general implication, and in church government lay eldership came to have these qualities only when circumstances brought the result about.

In so far as Calvinism had any leaning away from monarchical power, this resulted from a negative rather than from a positive quality. It was probably true—certainly the later sixteenth century believed it to be true—that Calvinism was not a form of church government which could commend itself to a national church of which the king was the temporal head. The essential reason for this was the fact, already noted, that Calvinism stood on the Hildebrandine principle that spiritual authority is superior to secular, and so tended to make the clergy independent of the temporal head of a state church. The difference between Calvinism and Catholicism in this respect lay in the fact that the former made the church generally, including both clergy and laity, autonomous, instead of concentrating spiritual power in the bishops. In the national churches the bishops, having been detached from Rome, became the most eligible agencies for conducting royal government in the church, and in consequence episcopalianism became the natural form of government to be adopted by the national churches. This was the reason for the pregnant aphorism of King James, "no bishop, no king," which was based upon a long and poignant experience of Calvinist presbyteries. In this sense, then, Calvinism was predestined to be the form of church government for

opposition parties. It was not intrinsically popular and certainly not in intention anti-monarchical, but it was non-monarchical in the sense that the monarchy always had more favourable forms of church government to choose from.

CALVIN AND PASSIVE OBEDIENCE

Of Calvin's specifically political views, by far the most important, at least as concerns his own time and place, is his strong and on the whole consistent assertion of the duty of passive obedience, in respect to which he was quite in agreement with Luther. Since secular power is the external means to salvation, the estate of the magistrate is, he says, most honourable; he is the vicar of God and resistance to him is resistance to God. It is a vain business for the private man, who has no duty to govern, to dispute what is the best condition for the state. If anything needs correction, let him show it to his superior and not put his own hand to the work. Let him do nothing without the command of his superior. The bad ruler, who is a visitation on the people for their sins, deserves the unconditional submission of his subjects no less than the good, for submission is due not to the person but to the office, and the office has inviolable majesty. It is true that Calvin, like practically all sixteenth-century advocates of the divine right of kings, expressed strong views on the duty of rulers to their subjects. The immutable law of God is binding on kings as well as on subjects, and the evil ruler is guilty of sedition against God. Like Locke later, he held that civil law merely fixes a penalty for what is intrinsically wrong. But the punishment of a derelict magistrate belongs to God and not to his subjects. This was a natural position for Calvin to take, both in view of his own power in Geneva and because of the hope that Calvinist protestantism might yet become the religion of the kings of France.

There was one phase of Calvin's theory of political resistance, of minor importance in his own writing, which was greatly developed by some of his followers. He pointed out that there are constitutions in which certain "inferior magistrates" are charged with a duty to resist tyranny in the head of the state and to protect the people against him.[1] He was clearly thinking of officials like the plebeian tribunes in ancient Rome. In case a constitution does include such inferior magistrates, the right to resist is itself derived from God; it is in no sense a general right of the people to resist. The sovereign power is held jointly, and one sharer has the duty to prevent aggression by another. This theory of the inferior magistrate got an importance among certain Calvinists out of all proportion to the place given it by Calvin. Once the doctrine of passive obedience was dropped, as it was first in Scotland and later

[1] *Institutes*, IV, xx, 31.

in France, the right to resist was usually lodged not in private persons but in the inferior magistrates or "natural leaders" of the people. The theory formed an aristocratic mitigation of a general theory of natural rights inherent in the people. In Calvin himself, however, there was no theory of popular rights. The ruler's obligation to govern lawfully is owed to God and not to the people; his power is limited by the law of God and not by the rights of the people; and if there is in a particular constitution a right to resist the chief magistrate, this also comes from God and not from the people.

It is a point of minor importance that Calvin's own political convictions were aristocratic rather than monarchical. There was room in his system for only one king, namely, God himself. Thus he described the selection of one man or one family for political power as *lèse-majesté* against the divine kingship. This opinion was probably reinforced by an intellectual preference, based upon humanistic studies, for the ancient aristocratic republic. This preference can be seen clearly in the *Institutes*. He reproduced from Polybius the ancient argument for mixed government. His criticism of hereditary monarchy recalls Cicero, and his strictures on democracy are as bitter as Plato's. Nothing could surpass the contempt expressed in his description of the Anabaptists as "those who live pell mell like rats in the straw." The bias of Calvin's own political and social opinions was markedly aristocratic and this remained in general the bias of Calvinism, except as it was transformed in certain of the left-wing sects.

In its main aspects Calvin's political theory was a somewhat unstable structure, not precisely because it was illogical but because it could readily become the prey of circumstances. On the one hand it stressed the wickedness of all resistance to constituted authority, but on the other its fundamental principle was the right of the church to declare pure doctrine and to exercise universal censorship with the support of secular power. It was practically a foregone conclusion, therefore, that a Calvinist church, existing in a state whose rulers refused to admit the truth of its doctrine and to enforce its discipline, would drop the duty to obey and assert the right to resist. At least, such a result might be expected where there was little chance of converting the government and a good chance of gaining by resistance. This was the situation in which Calvinists found themselves in the later sixteenth century in both Scotland and France.

JOHN KNOX

The reversal of the position was first made by John Knox, not because of any special originality on his part, but because of the situation in which Scottish Protestantism was placed. In 1558 Knox found himself in exile and under sentence of death by the Catholic hierarchy in

Scotland, but still the leader of a strong Protestant following. The crown, because of its alliance with France, was irretrievably Catholic. Thus he could hope much from a policy of resistance and nothing from any other policy, and, in fact, by this means he accomplished the Scottish reformation only two years later. It was in this situation that he wrote his *Appellation* to the nobility, estates, and commonalty of Scotland, asserting the duty of every man in his station to see that true religion is taught and that those are punished with death who deprive the people of "the food of their souls, I mean God's lively Word."

In essentials Knox did not depart from Calvin's principles. He assumed the incontestable truth of Calvin's version of Christian doctrine and also the duty of the church to enforce its discipline against all who do not willingly accept it. Every Christian is obliged to bring it about that this doctrine and this discipline shall have the weight to which their truth entitles them. So far Knox is merely Calvin over again. But in Scotland there is a Catholic regent for a Catholic queen who not only refuses the true faith but actively upholds idolatry (that is, Catholicism). What, then, ought a true believer to do? Knox boldly asserted that it was their duty to correct and repress whatever a king does contrary to God's word, honour, and glory, and thereby he rejected Calvin's doctrine of passive obedience.

> For now the common song of all men is, We must obey our kings, be they good or be they bad; for God hath so commanded. But horrible shall the vengeance be, that shall be poured forth upon such blasphemers of God his holy name and ordinance. For it is no less blasphemy to say that God hath commanded kings to be obeyed when they command impiety, than to say that God by his precept is author and maintainer of all iniquity.
>
> The punishment of such crimes as are idolatry, blasphemy, and others that touch the majesty of God, doth not appertain to kings and chief rulers only, but also to the whole body of that people and to every member of the same, according to the vocation of every man and according to that possibility and occasion, which God doth minister to revenge the injury done against his glory, what time that impiety is manifestly known.[1]

Behind some of Knox's statements there appears to lie the presumption that kings owe their power to election and hence are responsible to the people for its exercise,[2] but this is quite vague and undeveloped. The essential points are, first, that he abandoned Calvin's belief that resistance is always wrong and, second, that he defended resistance as part of the duty to sustain religious reform. His stand was taken upon the ground of religious duty, not of popular rights, but it put one great wing of the Calvinist churches in opposition to royalist power and

1 *Appellation: Works* (ed. by Laing), Vol. IV, pp. 496, 501. Strangely enough, this was written in Geneva. Views similar to Knox's were published in the same year by Christopher Goodman in his *How Superior Powers ought to be Obeyed*. The two men had evidently collaborated. See J. W. Allen, *Political Thought in the Sixteenth Century* (1928), p. 110.

2 *The Second Blast of the Trumpet* (1558).

boldly justified the use of rebellion. The next step was taken in France, where the outbreak of the religious wars again put a Calvinist party in opposition to a Catholic monarchy. Here the theory that royal power is derived from and responsible to the people received a much fuller development than Knox gave it, though still with a very definite reference to the religious question. The fuller development of Knox's revolutionary or anti-monarchical Calvinism may, therefore, be sought in such a work as the *Vindiciae contra tyrannos*.

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CHAPTER XIX

ROYALIST AND ANTI-ROYALIST THEORIES

When Calvin died in 1564 the lines were already drawn for the religious wars which, as Luther had said, were to "fill the world with blood." In Germany divisions of territory made it a struggle between princes, with the result that the fundamental issue of religious liberty need not be pressed. In the Netherlands it took the form of a revolt against a foreign master. In England, as also in Spain, the supremacy of royal power prevented the outbreak of civil war during the sixteenth century. But in France and Scotland a factional struggle arose which threatened the stability of the nations. Thus in France, between 1562 and 1598, there were no fewer than eight civil wars, marked by such atrocities as the St Bartholomew Massacre and the reckless use of assassination on both sides. Not only was orderly government interrupted, but civilization itself was jeopardized. In the sixteenth century, therefore, it was in France that the most significant chapter in political philosophy was written. Here appeared the main oppositions of thought which were elaborated in the English civil wars of the next century. The theory of the people's right as a defence of the right to resist and the theory of the divine right of kings as a bulwark of national unity both began their history as modern political theories in France.

THE RELIGIOUS WARS IN FRANCE

In the most general respects political development in France and England was similar, though there were important differences. In both it was the new monarchy which first formed an organ of national unity and the source of modern, centralized government. The task of the monarchy was easier in England, for the tradition of provincial and municipal independence was, on the whole, weaker than in France, where royal power prevailed only after a period of civil war. On the other hand, there was in France no such parliamentary tradition as there was in England. Though the power of parliament was temporarily eclipsed by Tudor absolutism, in the end it prevailed and established itself as a national government. In France differences of provincial privilege made a parliamentary constitution on a national scale impossible. Characteristic differences of political thought followed from the different ways in which national unification came about

in the two countries. In England, because the king's power was not seriously threatened in the sixteenth century, the theory of royal absolutism, or complete sovereignty vested in the king, did not develop, whereas in France this theory came to prevail by the end of the century. When opposition to royal power did develop in England in the seventeenth century, the issue was between the king and a national parliament, a form it could not possibly take in France. On the other hand, opposition to royal absolutism in France failed largely because it was allied with a medieval particularism that was incompatible with centralized national government.

In France, and indeed everywhere, differences of religion were inextricably interwoven with political and economic forces. The centralized system of French monarchy, which Machiavelli had admired as the best type of royal government, had by the middle of the sixteenth century proved to be subject to abuses so serious that for the moment they threatened to cost the crown the support of the higher middle classes, upon which its power really depended. Abuses of taxation, the delay and withholding of justice, and the venality of royal executives permitted something which might be called a reaction. The privileges of provinces, of nobility, of more or less self-governing cities, and of medieval institutions generally, all threatened to weaken the more distinctly modern institutions of centralized royal government. None of these issues was specifically Protestant or Catholic, but both religious parties used them as their interests dictated. It was the great weakness of the Huguenots, however, that they were in general on the side of local privilege and against the king. The permanent drift of political evolution is shown by the fact that, despite the personal weakness of kings, the crown emerged from the civil wars strengthened rather than weakened. In the long run it defeated both reaction and revolution, and effective centralization became possible towards the close of the sixteenth century under a prevailing theory of royal absolutism. In religion this meant the triumph of what may be called national Catholicism, as against both the ultramontane claims of the papacy, defended by Jesuits, and the forces of particularism represented by Calvinists.

Accordingly the controversial political literature of France after the outbreak of the civil wars was divided into two main types. There were, on the one hand, writings which defended the sanctity of the kingly office; by the end of the sixteenth century this tendency had crystallized in the theory of divine right, asserting the indefeasible right of the king to his throne, derived directly from God and descending to him by legitimate inheritance. The importance of this theory lay chiefly in the practical consequences deduced from it: first, the duty of passive obedience owed by subjects to their sovereigns in spite of doctrinal differences and, second, the impossibility that a king should be

deposed by an external power like the papacy. On the other hand, there were various 'anti-royalist' theories, as they came to be called,[1] which derived the king's power in some fashion from the 'people' or community and defended a right to resist him under certain circumstances. These anti-royalist theories were first developed by Huguenot writers, but there was, in fact, nothing specifically Protestant about them. The whole literature was essentially controversial, and the various parties had a disconcerting fashion of shifting their ground as circumstances dictated.[2]

Since the theory of the divine right of the king was first fully stated in reply to the argument justifying resistance, the latter may be stated first. The most interesting works were those of the French Protestants, which appeared chiefly after the St Bartholomew Massacre in 1572, though it will be convenient to mention here a few other works of similar import produced by Protestant writers outside France. The Jesuit works were, for the most part, not French and depended in varying degrees on the specifically Jesuit argument for the indirect power of the papacy, but they can conveniently be grouped together. In conclusion the theory of divine right will be stated as representing the upshot of the debate, at least so far as the situation in France was concerned.

THE PROTESTANT ATTACK ON ABSOLUTISM

The Huguenot writers developed two main lines of argument which remained typical of the opposition to absolute royal power, and which later reappeared in England. In the first place, there was a constitutional argument alleged to be founded on historical fact. This argument harked back to medieval practice as against the more recent tendency towards royal absolutism. To some extent it was a real appeal to fact, since it could be shown without much trouble that absolute monarchy was an innovation. Unfortunately, however, medieval government had not been constitutional either, in any sense that fitted the sixteenth century. For this reason historical arguments were likely to be inconsequential or specious; they served better to put an opponent in the unwelcome position of defending usurpation than to settle anything. In the second place, an opponent of royal power might turn to the philosophical foundations of political power and seek to show

[1] The name 'monarchomach' was apparently invented by William Barclay in his *De regno et regali potestate* (1600) to describe any writer who justified the right to resist. It did not imply an objection to monarchy as such.

[2] When the failure of the Valois line made it apparent that the Protestant Henry of Navarre would probably come to the throne, a group of Catholic anti-royalist writers adopted the argument earlier used by the Protestants. The principal works were Boucher's *De justa Henrici III abdicatione* (1589); and *De justa reipublicae Christianae in reges impios et hereticos potestate* (1590), by an unidentified writer who calls himself Rossaeus.

that absolute monarchy was contrary to universal rules of right supposed to underlie all government. At the same time the two lines of argument were not wholly disconnected and both were medieval in origin. The belief in natural law was part of a universally accepted tradition which had come down to the sixteenth century through every channel of political thought and which gained an added importance from the lawlessness of the new monarchy. The historical argument tacitly assumed that immemorial customs had the sanction of natural right.

Constitutional theory was, of course, not the special possession of the Huguenot party. The powers of the king of France had long been subjects of debate, and the view that these powers were limited by natural law or by customary privileges had been frequently stated. Prior to the period of civil war anything resembling a modern theory of sovereignty, investing the king with a universal power to make law, had hardly existed. This theory was the outcome of the threat to orderly and centralized government which the civil wars produced. In particular, it had been frequently held that the king's power was limited by the judicial machinery of the realm—by the supposed right of the Parlements to refuse to register and enforce a royal edict—or by the less definite right of the States General, as representing the whole kingdom, to be consulted in matters of legislation and taxation. Of these two the former was, in practice, the more serious check upon royal power. The limitation of the king by ancient or local privilege was generally admitted.

Of Huguenot writers on constitutional theory the best-known was Francis Hotman, whose *Franco-Gallia* was published in 1573, one of the large number of tracts called out by the Massacre of St Bartholomew in the preceding year. The book purported to be a constitutional history of France, showing that the kingdom had never been an absolute monarchy. Even hereditary succession Hotman held to be a custom of comparatively recent origin, dependent merely upon the tacit consent of the people. More specifically he held that the king was elective and his power limited by the States General which represents the entire kingdom, supporting this thesis by an array of precedents of more than doubtful authenticity. The argument depended upon the principle of medieval constitutionalism, that political institutions derive their right from immemorial practices inherent in the community itself. In this sense, the consent of the people, expressed in such practices, is the rightful basis of political power, and the crown itself derives its authority from its legal position as an agent of the community. Hotman's main positive contention, however, that the king's power in France had always been shared by the States General, was not true historically, nor had it any practical value in the circumstances, since the development of the States General into a national

parliament was not within the region of possibility. Neither the Huguenots nor any other party had any real interest in tying up their fortunes with the States General.

The philosophical type of theory, which inferred the limitation of royal power from general principles, was both more interesting and more important. In the years following the St Bartholomew Massacre French Protestants produced many works of this kind, all taking the position that kings are instituted by human society to serve the purposes of that society and that their power is therefore limited. The weight of this influence upon French Calvinism is shown by the fact that one of these pamphlets, though published anonymously, was probably the work of Calvin's friend and biographer, Theodore Beza, who was at that time his successor at the head of the government in Geneva.[1] The stress of circumstances drove Beza, as it had driven Knox, to reverse not only Calvin's teaching but his own previous convictions in favour of passive obedience. Somewhat reluctantly but quite clearly, he urged the right of inferior magistrates, though not of private citizens, to resist a tyrant, particularly in defence of true religion. Of all this rather numerous class of works, however, the most famous was the *Vindiciae contra tyrannos*, published in 1579,[2] which systematized the argument presented in the preceding few years. The *Vindiciae* became one of the landmarks of revolutionary literature. It was republished again and again, in England and elsewhere, when opposition between king and people came to a crisis. It must, therefore, be examined with some care, both for what it represents in the France of its own day, and to see just how closely it approximates the later doctrine of popular rights.

"VINDICIAE CONTRA TYRANNOS"

The *Vindiciae* was divided into four parts, each intended to answer a fundamental question of contemporary politics. First, are subjects obliged to obey princes if they command anything against the law of God? Second, is it lawful to resist a prince who desires to nullify the law of God or who lays waste the church, and if so, to whom, by what

[1] *De jure magistratum in subditos*; also in French under the title *Du droit des magistrats sur les sujets*, probably 1574. The authorship is discussed by A. Elkan, *Die Publizistik der Bartholomäusnacht* (1905), pp. 46 ff.

[2] There was a French edition in 1581 and an English translation in 1648 and often thereafter. This was reprinted with an introduction by H. J. Laski: *A Defence of Liberty against Tyrants*, London, 1924. The book was published under the pseudonym Stephen Junius Brutus, and the authorship has been debated since the sixteenth century. As a result of an article in Bayle's *Dictionary* it was formerly attributed to Hubert Languet, but since Max Lossen's paper in the Proceedings of the Royal Academy of Bavaria in 1887 it has usually been attributed to Philippe du Plessis-Mornay. Ernest Barker in "The Authorship of the *Vindiciæ contra tyrannos*," *Cambridge Historical Journal*, Vol. III (1930), pp. 164 ff., has recently revived the claim of Languet, and J. W. Allen in his *History of Political Thought in the Sixteenth Century* (1928), p. 319, n. 2, has expressed doubt in both cases. On the whole class of French works, see Allen, *op. cit.*, pp. 312 ff.

means, and to what extent? Third, how far is it lawful to resist a prince who is oppressing or destroying the state, and to whom, by what means, and with what right is such resistance allowable? Fourth, can neighbouring princes lawfully aid the subjects of other princes, or are they obliged to do so, when such subjects are afflicted for the sake of true religion or are oppressed by open tyranny?

The mere enumeration of these questions is enough to show the author's major interest. He was concerned not with government on its own account but with the relation between government and religion. Only in the third part did he approach a general theory of the state, and even there it cannot be said that politics got into the foreground. The whole book contemplated a situation in which the prince was of one religion and a substantial number of his subjects were of another. Moreover, the author never even imagined what would now seem the obvious solution, that a difference of religious faith should be treated as having nothing to do with political duties. He assumed that rulers must uphold pure doctrine. At the same time the substance of his argument depended little upon Calvin; no such theocracy as the government of Geneva was in sight for French Huguenots, nor did they want it. The political philosophy of the *Vindiciae* really went back to the argument of anti-papal writers, like William of Occam, or the conciliarists, against an heretical pope. The ruler is the servant of the community and the community can do whatever its own life requires.

In its main outline the theory of the *Vindiciae* took the form of a two-fold covenant or contract. There is, first, a contract to which God is one party and the king and people jointly the other party. By this contract the community becomes a church, a people chosen of God, and obligated to offer true and acceptable worship. This covenant with God stood closest to the revised form of Calvinism as Knox had stated it. Secondly, there is a contract in which the people appear as one party and the king as the other. This is specifically the political contract by which a people becomes a state; the king is bound by this agreement to rule well and justly, and the people to obey so long as he does. The double covenant was required because the author thought always of religious duty as the most important reason for rebellion. His main purpose was to prove the right to coerce an heretical king. From a purely political point of view—which, of course, could only have been taken if the religious question were divorced from politics—the covenant with God was an encumbrance upon the theory. If this were eliminated there would be left merely the political contract between the king and the community, setting forth the principle that government exists for the sake of the community and that political obligation is therefore limited and conditional. The omission would have required a degree of political rationalism which the author of the *Vindiciae* did not possess.

In another respect also the contract theory of the *Vindiciae* differed from the contract theory of later date. The author saw no discrepancy between the theory that the king's power comes from God and the theory that it arose by a contract with his people. In other words, the theory of divine right had not yet joined hands with the belief in passive obedience, so that, by stressing the king's responsibility to God, an author would be taken to imply that he was not responsible to his people. Accordingly the author of the *Vindiciae* did not hesitate to say also that the king's power was derived from God. The divine right of the kingly office was left standing beside the rights which a particular king derived by covenant from his people. Similarly the duty to obey the king's lawful commands is a religious duty as well as a duty which arises under contract. In no sense, therefore, was the *Vindiciae* an attempt to base government wholly upon secular principles; like the theory of divine right it was theological through and through.

The method of argument followed was a curious mixture of legalism and Scriptural authority. The forms of contract sanctioned by the civil law are treated as if they were part of the order of nature and as such had universal validity. In order to secure worship according to forms pleasing to him, God adopts a device used by creditors to secure a debt. In the first of the two contracts, the king and the people are jointly bound, as if the people had become surety for the king. Hence they become liable for the purity of worship in case the king defaults. On the side of Scriptural authority, the author uses the analogy of the covenant by which the Jews are supposed to become the chosen people of God.[1] In the Christian era all Christian peoples stand in the place of the Jews, and hence are 'chosen,' that is, committed to right worship and true doctrine. Another form of argument repeatedly used is the analogy of the feudal relation between lord and vassal. In both contracts the power of the king is represented as delegated, in the first by God and in the second by the people. Power is granted for certain purposes and its retention is conditional upon their fulfilment. God and the people are, therefore, superiors; the king is bound to their service and the obligation owed to him is limited and conditional.

> Then therefore all kings are the vassals of the King of Kings, invested into their office by the sword, which is the cognizance of their royal authority, to the end that with the sword they maintain the law of God, defend the good, and punish the evil. Even as we commonly see, that he who is a sovereign lord puts his vassals into possession of their fee by girding them with a sword, and delivering them a buckler and a standard, with condition that they shall fight for them with those arms if occasion shall serve.[2]

Such passages are numerous and striking. In them the *Vindiciae* joins hands with the historical argument of Hotman and others. They show that the case for the limited sovereignty of the king depended upon the prevalence of medieval modes of thought and was in substance a

[1] 2 Kings, xi, 17; xxiii, 3; 2 Chronicles, xxiii, 16.

[2] Ed. by Laski, pp. 70 f.

reaction towards older political conceptions and against the more typically modern position of the absolutists.

From this description of the main lines of argument followed in the *Vindiciae* it is easy to see the grounds upon which the author holds that the king's power may rightfully be resisted. Every Christian must agree that his duty is to obey God rather than the king, in case the king commands anything against God's law. Furthermore, since the king's power arises from a covenant to support true worship, it is clearly lawful to resist him if he violates the law of God or lays waste the church. Indeed, it is more than lawful; it is a positive duty. The people are jointly liable with the king for preserving the purity of doctrine and worship; the king's default puts the whole burden upon the people and if they fail to resist him they lay themselves liable to the full punishment which his sin merits.

The second contract, between king and people, justifies resistance to tyranny in secular government. Though kings are instituted by God, God acts in this matter through the people. Here again the *Vindiciae* took for granted all the forms of a contract at civil law. The people lay down the conditions which the king is bound to fulfil. Hence they are bound to obedience only conditionally, namely, upon receiving the protection of just and lawful government. The king, however, is bound unconditionally to perform the duties of his office; unless he does so, the compact is void. It follows that the power of the ruler is delegated by the people and continues only with their consent. All kings are really elective, even though a custom has grown up in favour of hereditary succession, for prescription does not run against the people's right. Abstracted from its context the argument here closely resembled the contract theory as it occurred later in Locke and in the popular theories of the American and French Revolutions, but in the *Vindiciae* the context of religious strife dominated.

Behind the form of the contract the author of the *Vindiciae*, like the later contract theorists, appealed largely to utilitarian argument. Kingship, he urged, was obviously sanctioned by the people because they considered the king's services worth what they cost. It must be assumed, therefore, that governments exist to further the interests of subjects, for the latter would be mad to accept the burden of obedience without receiving the benefits of protection to their lives and property.

> In the first place every one consents, that men by nature loving liberty, and hating servitude, born rather to command, than obey, have not willingly admitted to be governed by another, and renounced as it were the privilege of nature, by submitting themselves to the commands of others, but for some special and great profit that they expected from it. . . . Neither let us imagine, that kings were chosen to apply to their own proper use the goods that are gotten by the sweat of their subjects; for every man loves and cherishes his own.[1]

[1] Pp. 139 f.

In the main, however, the argument of the *Vindiciae* was not utilitarian. The chief ground for limiting the king's power is his subjection to law, both the law of nature and the law of the land; he depends on the law, not the law on him. The author has all the medieval reverence for law, and he reproduces all the commonplaces in eulogy of it that had accumulated since the times of the Stoics.

> The law is reason and wisdom itself, free from all perturbation, not subject to be moved with choler, ambition, hate, or acceptances of persons. . . . To come to our purpose, the law is an understanding mind, or rather an obstacle of many understandings: the mind being the seal of all the intelligent faculties, is (if I may so term it) a parcel of divinity; in so much as he who obeys the law, seems to obey God, and receive Him for arbitrator of the matters in controversy.[1]

Law comes from the people, not from the king, and hence can be changed only with the consent of the people's representatives. The king can dispose of the lives and property of his subjects only in such ways as the law permits, and he is accountable under the law for his every act.

It is of the essence of the contractual theory that the ruler may be held to account by the people for the justice and legality of his rule. The king who becomes a tyrant thereby loses his title to power. It remains to be shown, therefore, by whom this right shall be exercised. Here the author falls back upon the ancient distinction between a tyrant who is a usurper and has no claim to the kingship, and a lawful king who has become tyrannous. Only the first may be resisted or killed by a private citizen. In the second case, the right of resistance belongs solely to the people as a corporate body, and not to "the many-headed multitude" of private individuals. So far as individuals are concerned, the duty of passive obedience was asserted in the *Vindiciae* as strongly as it had been by Calvin. If the whole people resists collectively, they must act through their natural leaders, the inferior magistrates, the nobles, the estates, or local and municipal officials, each in his own territory. Only the magistrate, or one whose position makes him a natural guardian of the community, may resist the king.

This phase of the right to resist throws considerable light upon the true purposes of the *Vindiciae*. It was in no sense a claim of popular rights inhering in every individual, nor did the Huguenot party from which it emanated stand for popular rights. It stood rather for the rights (or ancient privileges) of towns and provinces and classes against the levelling effect of royal power. The spirit of the *Vindiciae* was not democratic but aristocratic. Its rights were the rights of corporate bodies and not of individuals, and its theory of representation contemplated the representation of corporations and not of men. No very

[1] Pp. 145 f.

clear statement of the circumstances justifying resistance was given or probably could have been given. But the point of view implicit in the theory was that of a state composed of parts or classes balanced against each other and governed by mutual agreement rather than by a political sovereign. In this respect the *Vindiciae* might easily have led to something like a federal conception of government. Such a theory, picturing the state as a federation of lesser corporate bodies, actually was formulated a few years later by Althusius in the Netherlands, where the form of government was more suitable to such a view.

The political theory of the *Vindiciae*, taken in its entirety, was a strange mixture. Not unnaturally, in view of the later development of the contract theory, this element of the book has been chiefly stressed, but at the expense of historical accuracy. It restated the old conception that political power exists for the moral good of the community, is to be exercised responsibly, and is subject to natural right and justice. These ideas were the common heritage of modern Europe from the Middle Ages. It brought the theory of the contract definitely into the service of the right to resist, but it was, on the whole, less in touch with the prevailing modern tendency in government than the theory of absolutism which it opposed. The *Vindiciae* was not in the first instance a theory of secular government at all; that it owed its origin to the religious struggle and was the pronouncement of a religious minority is the clearest thing about it. The author had no conception of a state which could abstain from making itself responsible for religious truth and purity of worship. In particular, its defence of the right to resist was not in the least an argument for popular government and the rights of man. Individual human rights had no part in it, and its practical bias was aristocratic or even in a sense feudal. In spirit, therefore, it was wholly at odds with the doctrines of liberty and equality which were later poured into the mould of the contract theory.

OTHER PROTESTANT ATTACKS ON ABSOLUTISM

In countries other than France but more or less affected by French thought, there appeared works by Protestant writers setting forth theories much like that of the *Vindiciae contra tyrannos*. In the same year in which the *Vindiciae* was published the Scottish poet and scholar, George Buchanan, published his *De jure regni apud Scotos*, which rivalled the French work in fame as a revolutionary document and surpassed it in literary merit. Buchanan lived much of his life in France and might reasonably be classed as a French thinker, though his associations were not especially with Huguenots. His personal interests made him rather a humanist than a sectarian, and perhaps for this reason his book was less dominated by theological motives than the *Vindiciae*. Thus he omitted the peculiar twofold contract and so gave his theory

a more definite application to secular government. Power is derived from the community and must therefore be exercised in accordance with the law of the community; obligation is necessarily conditional upon the performance by the king of the duties of his office. Buchanan stated rather clearly the ancient Stoic view that the government originates in the social propensities of men, and is therefore natural, and in this respect also he tended to minimize the dependence of politics upon theology. The right to resist was, of course, his main point of emphasis; here his argument was substantially like that of the *Vindiciae*, except that he was more outspoken in justifying tyrannicide and substituted a vague notion that the people act through a majority for the view that they depend upon the natural leadership of subordinate magistrates. To this extent he was less bound by the feudal aspects of Huguenot theory. It is curious to think that Buchanan's book was written for the instruction of his royal pupil, the future James I of England. James's wholehearted Anglicanism was due to a clear apprehension, gained in his youth, both of the theory and practice of Presbyterianism.

In the Netherlands, also, the same type of political philosophy was used to justify resistance to tyranny. In that country occurred both its most overt popular use and later, in Althusius and Grotius, a systematic and scholarly development that took it beyond merely controversial use. In 1581 the States General, in the Act of Abjuration,[1] renounced their allegiance to Philip II with the assertion:

> All mankind know that a prince is appointed by God to cherish his subjects, even as a shepherd to guard his sheep. When, therefore, the prince does not fulfill his duty as protector; when he oppresses his subjects, destroys their ancient liberties, and treats them as slaves, he is to be considered, not a prince, but a tyrant. As such, the estates of the land may lawfully and reasonably depose him, and elect another in his room.

The act was in no sense a philosophical disquisition, but analysis shows that it assumed the same two points which appeared in all the anti-royalist arguments, the law of nature and the defence of ancient liberties. It showed how deeply rooted in popular consciousness was the notion that political power ought to depend on moral forces inherent in the community, and ought to be used in the service of the community, as the Mayflower Pact a few years later (1620) showed how readily men thought of civil society in terms of common assent or contract.

THE JESUITS AND THE INDIRECT POWER OF THE POPE

While an anti-royalist political philosophy of the type just described, which traced the king's power to the consent of the people and defended

[1] Analysed in Motley's *Rise of the Dutch Republic*, Pt. 6, ch. iv.

the right to resist, was developing among Calvinist Protestants, a similar kind of theory was sponsored by Catholic writers and particularly by the Jesuits. The motives behind this philosophy were mixed, as in the case of the Calvinists. Catholics were, of course, influenced by the same constitutional traditions which caused Protestants to defend representative government against absolutism, and in this respect the difference of religion or the special purposes of the Jesuit Order counted for nothing. On the other hand, the Jesuits had special reasons for espousing anti-royalist views of the kind mentioned above; like the Calvinists they were opposed to a too powerful national monarchy. Unlike the Calvinists, however, they utilized their theory to support a revised form of the old doctrine of papal supremacy in moral and religious questions. This purpose was specifically Jesuit and was by no means shared by Catholics who were more responsive to national and dynastic interests.

So far as anti-royalist theory was thus specifically Jesuit, it was quite as directly a result of the religious differences of the sixteenth century as Calvinist theory. It grew out of the part that the Order played in the remarkable counter-movement of reform in the Roman Church, which within two generations corrected some of the worst abuses that had caused Protestant defection, gave greater precision to many definitions of doctrine, brought a new type of ruler to the papal throne, and produced a more rigid discipline of the reformed papacy over the lower clergy. This counter-reform succeeded amazingly. It not only stopped once for all the spread of Protestantism, but it created the hope, or the fear, that the church might win back its lost provinces. In this militant revival there was no greater single force than that ideal missionary organization, the Jesuit Order. Founded in 1534 and bound by the strictest oath of obedience and self-abnegation, the Order drew to itself in the sixteenth century not only men of zeal and administrative power, but also some of the ablest minds in the Roman Church. The Jesuit schools and the Jesuit scholars were among the best in Europe; the extraordinary fear with which its opponents regarded it was justified by its capacity. Even though its political philosophy was obviously influenced by propagandist motives, the Jesuit statement of the anti-royalist theory was probably, on the whole, on a higher intellectual level than Protestant statements of the same position.

The special purpose of the Jesuits was to reformulate a moderate theory of papal superiority, upon lines suggested by St Thomas, in the light of political conditions that had come to prevail in the sixteenth century. The conception of the emperor as the temporal head of Christendom, which was hardly alive in the fourteenth century, had ceased to appeal even to the imagination. Europe had become in feeling as in fact a group of national states, effectively self-governing in secular affairs but still in some sense Christian, though no longer

acknowledging allegiance to a single church. It was the dream of the Jesuits to win back the seceders and, by conceding the fact of independence in secular matters, to save for the pope some sort of spiritual leadership over a society of Christian states. The latter policy, which as the event proved was quite illusory, was largely the reason for the detestation in which the Jesuits were held by nationalist Catholics no less than by Protestants.

The Jesuit theory of the papacy was given definite form by Robert Bellarmine,[1] the most effective of all the Catholic controversialists of the sixteenth century. Conceding that the pope has no authority in secular matters, Bellarmine argued that he is nevertheless the spiritual head of the church, and as such has an indirect power over temporal matters, exclusively for spiritual ends. The power of secular rulers does not come directly from God, as the royalists asserted, nor from the pope, as the extreme papalists had held. It arises from the community itself for the sake of its own secular ends. The king's power is secular in kind and in origin; only the pope among human rulers has his power directly from God. It follows that secular government ought not to be able to exact an absolute obedience from its subjects, and also that spiritual authority, for spiritual purposes, has the right to direct and control secular. These are circumstances, then, in which the pope is justified in deposing an heretical ruler and absolving his subjects from their allegiance. Except for a stronger emphasis on the secular origin of royal power, Bellarmine's theory of church and state was not substantially different from St Thomas's. Except for its reference to the papacy, it was not substantially different from that of the Calvinists. Both stood for the independence of the church in doctrinal decisions and neither could admit royal supremacy in a national church or the indefeasible divine right of an heretical king. This explains the bracketing of Jesuit and Calvinist in the royalist literature. James I's epigram, that "Jesuits are nothing but Puritan-papists," was typical, and on the whole true.

It is one of the ironies of history that both the Jesuit and the Calvinist contributed to a theory of church and state which they abhorred, in so far as they ever thought of it. In the sixteenth century every controversialist assumed, with surprising simplicity of mind, that his own theology was manifestly true and wholesome for every one. The possibility that no religious system could be made universally acceptable was simply not faced. When it became apparent that this was the fact, and that no important religious group could be suppressed without the greatest political danger, there was nothing for government to do except to withdraw altogether from theological controversy and leave each church to teach its own doctrine to such as cared to hear.

[1] In the first volume of his *Disputationes* (1581): *De summo pontifice*; elaborated in his *De potestate summi pontificis* (1610).

The whole Christian tradition was against making a political official overtly the arbiter of religious truth, even if the national churches had, in fact, included the whole nation in their membership. Hence the claim that the church must be independent was inescapable, but independence had to be purchased at the cost of making church and state two distinct societies, and this was just what neither the Jesuit nor the Calvinist contemplated. The Jesuit theory in particular was an approximation to this hated conclusion. The theory that the state is a national society, purely secular in origin and purpose, while the church is world-wide in scope and of divine origin, implied that the church is one social body and the state another, membership in one being independent of membership in the other. The outcome was, therefore, quite contrary to the revived medievalism that both Jesuits and Calvinists intended.

There was, therefore, a sound reason why, despite theological differences, the political theories of Calvinists in France or Scotland should have had certain similarities with those of the Jesuits. Both were in a situation where it was necessary to urge that political obligation is not absolute, and that a right of rebellion exists against an heretical ruler. Both depended upon a common heritage of medieval thought and argued that the community itself creates its own officials and can regulate them for its own purposes. Both held, therefore, that political power inheres in the people, is derived from them by contract, and may be revoked if the king becomes a tyrant. Without being markedly original, the Jesuit writers were in general clearer in stating the principles of the argument than the Calvinists.

THE JESUITS AND THE RIGHT TO RESIST

The early Jesuit writers were chiefly Spanish, and their theory was more influenced by their nationality than by the specific Jesuit purpose just mentioned. This was particularly true of Juan de Mariana,[1] whose theory was mainly governed by constitutional considerations. Like Hotman, he admired medieval institutions, especially those represented by the Estates of Aragon. The Estates he regarded as the guardians of the law of the land, to which the king is fully subject. The power of the king he derived from a contract with the people, who are represented by the Estates, and to them the power to change the law is reserved. Hence the king may be removed for violating the fundamental law. This constitutional theory Mariana built upon an account of the origin of civil society from a state of nature preceding government, in which men live a kind of animal existence, lacking both the virtues and the vices of civilized life. Like Rousseau later, he regarded the origin of private property as the crucial step towards law

[1] *De rege et regis institutione* (1599).

and government. The most important feature of Mariana's theory was that he treated the origin and evolution of government as a natural process, taking place under the impulsion of human needs, and on this ground he based the contention that a community must always be able to control or depose the rulers whom its needs have created. He came much closer than the author of the *Vindiciae contra tyrannos* to a non-theological view of civil society and its functions.

His book has been famous, or rather infamous, for its frank acceptance of tyrannicide as a remedy for political oppression. Actually he was not, in principle, very different from other writers of his time. The right of private citizens to kill a usurper was very widely recognized, and Buchanan had defended the right to kill an oppressor even though his title were lawful. The greater infamy of Mariana was probably due to his open defence of the murder of Henry III of France, which caused his book to be burnt by the Parlement of Paris. Mariana put little stress upon the spiritual power of the pope and in that respect was not a typical Jesuit.

The most important representative of Jesuit political theory was the Spanish scholastic philosopher and jurist Francisco Suarez,[1] though his politics was incidental to a philosophical system of jurisprudence, which in turn was only one part of a complete structure of philosophy on the model of St Thomas. Like Bellarmine, Suarez conceived of the pope as the spiritual leader of a family of Christian nations and consequently as spokesman of the moral unity of humanity. The church is a universal and divine institution; the state is national and particular. On this ground he defended the indirect power of the pope to regulate secular rulers for spiritual ends. The state is specifically a human institution, depending upon human needs, and originating in a voluntary union of the heads of families. By this voluntary act each assumes the obligation of doing whatever the general good requires, while the civil society thus formed has a natural and necessary power to control its members for the general good and to do whatever its life and needs require. In this way he established the principle that the power of society to rule itself and its members is an inherent property of a social group. It has no dependence on the will of God, except as everything in the world depends on His will, but is purely a natural phenomenon, belonging to the physical world and having to do with man's social needs. Aside from the indirect power of the Pope, Suarez's view of society was in no special sense theological. From the view that political power is an inherent property of the community, he concluded, as might be expected, that no form of political obligation is absolute. Political arrangements are in a sense superficial: a state may be ruled by a king or in some other way; the government's power may be more or less. In any case, political power

[1] *Tractatus de legibus ac deo legislatore* (1612).

is derived from the community; it exists for the welfare of the community; and when it does not work well it can be changed. The intent of this theory was, no doubt, to exalt the divine right of the pope above the merely secular and human power of the king, but the effect was really to set politics more completely apart from theology.

Suarez's political theory was incidental to his jurisprudence. His purpose was to present an encyclopaedic philosophy of law in all its divisions, and, as was usual in his writings, he presented a summary and systematization of all phases of medieval legal philosophy. In Suarez and the other members of what is sometimes called the Spanish School of jurisprudence the legal philosophy of the Middle Ages was digested and arranged, and was thus passed on to the seventeenth century. In particular, these jurists gave a systematic presentation of the whole doctrine of natural law, and so contributed in no small degree to the fact that, for the seventeenth century, this appeared to be the only scientific way to approach problems of political theory. The influence of Hugo Grotius was, perhaps, decisive in this matter, but behind Grotius was the systematic jurisprudence of the Spaniards. Indeed in Suarez, natural law connoted many of the conclusions to which Grotius was led. If there are in nature and in human nature certain qualities which inevitably make some ways of behaving right and others wrong, then the difference of good and bad is not due to the arbitrary will either of God or man, but is a rational distinction. The nature of human relations and the consequences which naturally flow from human conduct constitute a test to which the rules and practices of the positive law may be submitted. No human legislator —as Grotius later said, not even God Himself—can make wrong right; as Suarez argued, not even the pope can change natural law. Behind the special provisions of the law there are rational provisions of general validity. Thus it follows that states, like individuals, are subject to the law of nature, a principle which implies the rule of law within the state and also legal relations between states. Even in Suarez it is possible to see the suggestion of a system in which the law of nature becomes the basis of both constitutional and international law.

THE DIVINE RIGHT OF KINGS

The controversial theory that political power belongs to the people and that rulers may be resisted for valid reasons bred its own answer, and this naturally took the form of a revision of the long-standing belief in the divinity of civil authority. In the sixteenth century such a revision led naturally to the divine right of kings. This theory, like its opponent theory, depended on the struggle for power between religious sects. As a defence of the right to resist came naturally from a party in opposition to what it regarded as an heretical government, so the

indefeasible right of the king was defended by those who were on the side of a national establishment and against a threatening opposition. In the beginning the issue was only secondarily absolutism against constitutionalism, and it was not at all autocracy against democracy. Divine right was a defence of order and political stability against a view widely believed to augment the danger implicit in religious civil war. The vital practical question was whether heresy in a ruler is a valid ground for civic disobedience.

In its modern form the theory of the divine right of the king was a development slightly later than the theories of limited royal power and was an answer to them. It crystallized in the disorders of the civil wars themselves, and it corresponded accurately to the actual increase of power in the French crown, which emerged at the end of the century stronger than it was when the wars began. By the end of the century it was ready to begin the final course of centralization which ended in the absolute monarchy of Louis XIV. This was the only solution consistent with the maintenance of effective national government in France. As the wars continued, it became ever clearer that neither Protestant nor Catholic could gain an unqualified victory, though the contest might easily destroy both French government and French civilization. To set up the king as the head of the nation, the object of loyalty to men of all parties though they remained Protestant or Catholic, was the only feasible course. The political principles involved in this movement were stated at a far higher philosophical level in Jean Bodin's theory of sovereignty, but the doctrine of divine right was a popular version of substantially similar ideas. It represented a national reaction to the disunion at home and the weakness abroad felt to be implicit both in Huguenot provincialism and ultramontane Catholicism.

The theory of divine right, like that of popular right which it was set up to oppose, was a modification of a very ancient and generally accepted idea, namely, that authority has a religious origin and sanction. No Christian, from the time when St Paul wrote the thirteenth chapter of Romans, had ever doubted this. But since literally *all* power was of God, *ius divinum* had no necessary application to a king more than any other kind of ruler. Moreover, though power as such was divine, it might still be right, under proper circumstances, to resist an unlawful exercise of power. For these reasons no incompatibility was felt, before the end of the sixteenth century, between the theories that power comes from God and that it comes from the people. What made the two views incompatible was, first, the development of popular right to mean specifically a right to resist and, second, the counter-development of divine right to imply that subjects owe their rulers a duty of passive obedience. The ancient phrases, almost meaningless in themselves, such as that kings are the vicars of God,

thus got a new meaning: rebellion even in the cause of religion is sacrilege. The duty of passive obedience, preached by both Luther and Calvin, was sharpened by investing the king with a special sanctity.

The divine right of kings in this new form was essentially a popular theory. It never received, and indeed was incapable of receiving, a philosophical formulation. But if the importance of a political doctrine depends partly on the number who hold it, the theory compares favourably with any political idea that ever existed, for it was believed with religious intensity by men of all social ranks and all forms of theological belief. The stock arguments for it were the familiar passages of Scripture, such as the thirteenth chapter of Romans, which had been quoted by writers time out of mind. What gave these old arguments new force in the sixteenth century were the dangers of disunion and instability inherent in sectarian partisanship, the chance of clerical control over secular government, either from the side of the Calvinists or the Jesuits, and a rising sense of national independence and unity. In the mass, therefore, the theory served mainly as a focus for patriotic sentiment and as a religious rationalization of civic duty. On the side of intellectual construction it was hopelessly weak. Some of its abler proponents, however, did provide an active, and at times not ineffective, criticism of the opponent theory that political power resides in the people.[1]

The logical difficulty with the theory of divine right was not that it was theological—it was scarcely more so than the theory which it opposed—but that the peculiar legitimacy attributed to royal power defied analysis or rational defence. The imposition of divine authority upon the king is essentially miraculous and must be accepted by faith and not by reason. The office of king is, as James I said, a 'mystery' into which neither lawyers nor philosophers may inquire. Hence the theory could hardly survive after the quotation of Scriptural texts ceased to be a reputable method of political argumentation. In this respect it differed from the theory of a political contract, which, despite its earlier theological form, could be stated in a way that any rationalist might accept and hence could offer the opportunity for a philosophical analysis of political obligation.

In so far as royal legitimacy was presented in terms of natural processes, it meant that the king's power was hereditary, presumably on the ground that God's choice was manifested in the fact of birth. From this point on, however, the argument usually became an elaborate and not very convincing analogy between political power and the 'natural' authority of a father, or between the reverence due to a king and the respect which children owe to their parents. This analogy was obviously open to the ridicule with which John Locke treated it.

[1] The most elaborate statement of the theory of divine right was made by William Barclay, a Scot long resident in France, in his *De regno et regali potestate* (1600).

Despite its antiquity it probably never convinced anyone who was not ready to be convinced for other reasons. Analogy apart, the argument for royal legitimacy simply erected the feudal rule of primogeniture into a general law of nature. But this argument was open to the objection that, however natural the facts of birth and heredity may be, the inheritance of land and power is a legal rule which differs from country to country. In France the Salic Law excluded succession in the female line, which was legal in England. Thus the argument was in the strange position of implying that God changed his mode of imposing the divine right to rule according to the constitutional practice of each country.

The moral doctrine that rebellion is never justified, even though a ruler be a heretic, was a normal part of the modernized theory of divine right. It supplied, however, no logical relation between the two propositions, which had always been regarded as independent. Passive obedience could be, and often was, defended on utilitarian grounds which had nothing whatever to do with divine right. An unusually lively sense of the dangers of disorder might be all that was needed to make the duty of subjection seem paramount. Moreover, some writers who defended the divine right of kings might admit, like William Barclay, that a special crime on the king's part, such as conspiring to overthrow the state, could be treated as a constructive abdication. But this was conceived as a quite exceptional possibility. In general, divine right came to mean that the subject's duty of submission was absolute, unless perhaps in some altogether monstrous circumstance.

The duty of passive obedience did not mean that the king was wholly irresponsible and could do whatever he chose. It was usually argued that the king, being more highly placed than other men, was responsible in a higher degree. The law of God and the law of nature were assumed, as they always had been, to be binding on him, and his general duty to respect the law of the land was commonly asserted. But this obligation is owed to God, and the king cannot be held to human judgment either within or without the processes of law. A bad king will be judged by God, but he must not be judged by his subjects or by any human agency for enforcing the law, such as the estates or the courts. The law resides ultimately "in the breast of the king." This became the ultimate political issue between the theory of divine right and that of popular or parliamentary right, wherever the lines were drawn for a constitutional struggle between the king and a representative body.

JAMES I

Though the modernized version of divine right was native to France, it appeared also in Scotland at about the same time. Here it was stated by no less a person than the king himself, the prince who after-

wards became James I of England, whose *Trew Law of Free Monarchies* was published in 1598.[1] This book reflected the unhappy experiences of James's family and his own youth with the Scottish Calvinists, as well as his reading of the controversial works produced by the religious wars in France. By 'free monarchy' he meant royal government which is independent of coercion both by foreign princes and by sectaries or feudatories within the kingdom. The long struggle between the House of Stuart and the turbulent Scottish nobility, and the more recent humiliations which James and his mother suffered at the hands of the Presbyterians, offer an ample explanation of the importance which he attached to this conception. A Scottish presbytery, he once said, "agreeth as well with monarchy as God and the devil." It is of the essence of free monarchy that it should have supreme legal power over all its subjects.

Kings, therefore, James wrote, "are breathing images of God upon earth."

> The state of monarchy is the supremest thing upon earth: for kings are not only God's lieutenants upon earth, and sit upon God's throne, but even by God himself they are called Gods.[2]

He is like a father as compared with his children, or like the head as compared with the body. Without him there can be no civil society, for the people is a mere "headless multitude," incapable of making law, which proceeds from the king as the divinely instituted lawgiver of his people. The only choice, therefore, is between submission to the king and complete anarchy. Applying his theory to Scotland, James asserted that kings existed before there were estates or ranks of men, before parliaments were held or laws made, and that even property in land existed only by the grant of the king.

> And so it follows of necessity, that kings were the authors and makers of the laws, and not the laws of the kings.[3]

The assertion was supported by much dubious history; what it seems to mean is that originally the king's power depended upon the right of conquest.

Once established the king's right descends to his heirs by inheritance. It is always unlawful to dispossess the rightful heir. Since James's claim to the Scottish throne, and later to the throne of England, was strictly hereditary, it was natural for him to cling to this principle, which expressed merely the inalienable and indefeasible right of the heir in feudal law. The essential legal quality in monarchy is, therefore, legitimacy as evidenced by lawful descent from the previous legitimate monarch. This became the distinctive position of the

[1] *The Political Works of James I.* Introduction by C. H. McIlwain (Cambridge, Mass., 1918).

[2] *Works*, p. 307.

[3] *Ibid.*, p. 62.

Stuart Family in the English Civil Wars. No considerations of utility can set aside a valid hereditary claim; even an accomplished revolution does not invalidate it; and no law of prescription runs against the legitimate heir. In short, the quality of a king is a supernatural stigma, not to be explained and not to be debated. In 1616, James charged his judges in Star Chamber:

> That which concerns the mystery of the king's power is not lawful to be disputed; for that is to wade into the weakness of princes, and to take away the mystical reverence that belongs unto them that sit in the throne of God.[1]

James always admitted that he was responsible in the highest degree, but responsible to God and not to his subjects. In all ordinary matters he acknowledged that a king ought to give the same respect to the law of the land that he demanded of his subjects, but this is a voluntary submission which cannot be enforced.

The true nature of the theory of divine right, as a defence of national stability against threatened disunion, was perhaps best illustrated by the fact that it had little currency in England in Tudor times. Despite differences between Calvinists and Anglicans about the propriety of royal supremacy in the national church, there was at no time prior to the death of Elizabeth any serious threat to the internal peace and order of the kingdom. In the sixteenth century the English Calvinists did not adopt the anti-royalist philosophy characteristic of the French and Scottish Calvinists. On the other side, Anglicans had as yet no special motive for bolstering up passive obedience with the doctrine of indefeasible royal right. The horrible example of the civil wars in France gave ample ground for defending passive obedience on sober utilitarian grounds. The actual stability and the unquestioned power of the Tudor monarchs made the theory of divine right unnecessary. The situation changed in the seventeenth century when the outbreak of civil war required both a defence of resistance on the ground of popular right and a refutation of that position. The divine right of the king then became a common position among clerical apologists for the Stuarts. However, the situations in France and in England were essentially different, because national sentiment in England was at least as well represented by the judges of the common law or by parliament as by the king. The question was not national unity against disunion, but what constitutional agent should stand for national unity. There was no reason why a special divinity should hedge an English king, and, in fact, the theory of divine right had little importance in English political theory.

[1] *Works*, p. 333.

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CHAPTER XX

JEAN BODIN

Most of the books on politics produced in France in the last quarter of the sixteenth century were controversial tracts, without detachment and without philosophical originality. There was one work, however, the *Six livres de la république*, published by Jean Bodin in 1576,[1] of less ephemeral nature. This book also was occasioned by the civil wars, and was written with the avowed purpose of strengthening the king. But Bodin achieved an unusual aloofness from religious partisanship, and he strove for a philosophical system of political ideas which, however confused he may have been, at least put his book out of the class of controversial literature. In the *Republic* Bodin set himself no less ambitious a task than to do for modern politics what Aristotle had done for ancient, and while the comparison cannot be seriously sustained, the book achieved a great reputation in its day and has been given by all scholars an important place in the history of political thought. Its importance was less due to its elaborate effort to revive the system of Aristotle than to the fact that it took the idea of sovereign power out of the limbo of theology in which the theory of divine right left it. By so doing it led both to an analysis of sovereignty and to its inclusion in constitutional theory.

RELIGIOUS TOLERATION

The *Republic* might be described as a defence of politics against parties. Published only four years after the Massacre of St Bartholomew, it formed the main intellectual production of an already growing body of moderate thinkers, known as the Politiques, who saw in the royal power the mainstay of peace and order and who, therefore, sought to raise the king, as a centre of national unity, above all religious sects and political parties. In part they represented the swing towards strong government which always comes in a time of disorder, but their position in the sixteenth century was more significant than that. They were among the first who envisaged the possibility of tolerating several religions within a single state. Though mostly Catholic themselves, they were before everything nationalist, and in

[1] Bodin published an enlarged Latin edition in 1586. There was an English translation by Richard Knolles in 1606.

their political thinking they were prepared to face the solidest political fact of the age, namely, that the division of Christianity was irreparable and that no single sect could either convince or coerce the others. The policy which they advocated, accordingly, was to save what might still be saved from the wreck; to permit religious differences which could not be healed and to hold together French nationality even though unity of religion was lost. Such had been the policy of Catherine de' Medici's chancellor, L'Hôpital, at the very opening of the civil wars, and such was the general policy of settlement which prevailed under Henry IV. Sane as this policy was, it seemed irreligious to most men in the sixteenth century; the Politiques were described by one of their enemies as "those who preferred the repose of the kingdom or their own homes to the salvation of their souls; who would rather that the kingdom remained at peace without God than at war with Him." There was an element of truth in this gibe. The Politiques certainly commended religious toleration as a policy rather than as a moral principle. They never denied the right of the state to persecute or questioned the advantages of a single religion. But they perceived that religious persecution was, in fact, ruinous and they condemned it on this utilitarian ground. In a general way Bodin was related to this group, and he intended by his book to support their policy of toleration and also to supply a reasoned basis for enlightened policy in respect to many practical questions that arose in a distracted age. But he was emphatically no opportunist. His *Republic* was intended to supply the principles of order and unity upon which any well-ordered state must rest.

Bodin's political philosophy was a singular mixture of the old and the new, as all philosophical thought in the sixteenth century was. He had ceased to be medieval without becoming modern. A lawyer by profession, he won the enmity of his fellow-lawyers by advocating an historical and comparative study of law, in place of an exclusive devotion to the texts of Roman law. Both law and politics, he insisted, need to be studied not only in the light of history, but also in the light of men's physical environment, of climate and topography and race. And yet, mingled with this very modern-sounding suggestion was a firm belief that environment includes the influence of the stars and can be understood in its relation to the history of states by the study of astrology. A forthright advocate of religious toleration and of liberal and enlightened administration, Bodin was likewise the author of a handbook on sorcery intended to be used by magistrates in the detection and trial of witches. Often critical and incredulous in his analysis of historical sources, he was ready to accept every folk-tale about the diabolical plots of those who have sold themselves to the Devil. An advocate of policies aimed at the material and economic welfare of the nation and the author of a book that has been called the first

modern work on economics, he could still people the physical world with spirits and demons on whose acts the lives of men depend at every turn. A critic of all religious sects so balanced in judgment that no man knew whether he was Protestant or Catholic, and some suspected that he was a Jew or an infidel, he was yet profoundly religious both by temperament and conviction.[1] Bodin's thought was an amalgamation of superstition, rationalism, mysticism, utilitarianism and antiquarianism.

A similar confusion exists in his political philosophy. It seems clear that he himself believed that he was following a new method, the secret of which consisted in combining philosophy and history. "Philosophy," he says, "dies of inanition in the midst of its precepts when it is not vivified by history." He criticized Machiavelli for the omission of philosophy and attributed to this the immoral tendency of his writings. On the other hand, Bodin had no patience with such utopian politics as he found in Sir Thomas More and in Plato. His ideal was an empirical subject-matter held in a framework of general principles; fact was to give solidity and reason meaning. This conception of political philosophy he derived from Aristotle, and it must be admitted that Bodin conceived the task more broadly than any other writer of his time. Unfortunately his accomplishment was not equal to his designs. He had no clearly conceived system by which to order his historical material. The *Republic*, and indeed his books generally, are unorganized and ill-arranged, repetitious and disconnected, though in parts he was capable of being clear and cogent. Moreover, he deluged his reader with historical illustrations, statistics, citations, and expositions of law and institutions drawn from an appalling erudition. The neglect into which his books fell within a century of his death was mainly due to their being intolerably formless and tedious. Bodin's power of literary presentation was practically non-existent; his systematic capacity was rather a facility in formal definition than a real power of philosophical construction; and despite a genuine insight into the history and working of institutions, he was an antiquarian rather than a philosophical historian.

THE STATE AND THE FAMILY

Such arrangement as the *Republic* has was borrowed from Aristotle, though the outline was obscured by almost endless digressions. Bodin first considered the end of the state and then the family, together with

[1] Bodin's project for combining the study of law and history is in his *Methodus ad facilem historiarum cognitionem* (1566); the dependence of history on environment is treated here and also in Book V of the *République*. His work on economics is the *Réponse aux paradoxes de M. de Malestroict* (1568); also ch. ii and iii of Book VI of the *République*. The work on sorcery is the *Démonomanie* (1580). That on religion is the *Heptaplomeres*, not completely printed until 1857.

marriage, the relation of father and children, private property, and slavery, all of which he regarded as aspects of the family. The opening part, however, revealed at once his weakness in forming a systematic political philosophy. He had no clear theory of the end of the state. He defined it as "a lawful government of several households, and of their common possessions, with sovereign power." The word lawful is said to signify just, or in accordance with the law of nature, and to distinguish the state from a lawless association like a band of robbers. With respect to the end which sovereign power should seek for its subjects, however, Bodin was very indefinite. He saw that Aristotle was not a safe guide here, the ends sought by the city-state being impossible in a modern kingdom. Hence, he said, the happiness or goodness of citizens is not a practicable end. Yet he was unwilling to restrict the state to the pursuit of merely material and utilitarian advantages, such as peace and the security of property. The state has a soul as well as a body, and the soul is higher, though the needs of the body are more immediately pressing. In reality Bodin never gave a clear account of these higher ends of the state. The result was a serious deficiency in his system, since he never succeeded in explaining precisely the reasons for the citizen's obligation to obey the sovereign.

Bodin's theory of the family is a distinctive part of his work, but it too is hard to relate to the theory of sovereignty. The family—consisting of father, mother, children, and servants, with the common property—he regarded as a natural community from which all other societies arise. Following the Roman conception that the state's jurisdiction ends at the threshold of the house, he seriously proposed reviving the most extreme powers of the *pater familias* over his dependants, with complete control over the persons, the property, and even the lives of his children. At the same time he added to this an excellent refutation both of the right and the utility of slavery. The family forms a natural unit, in which the right of private property inheres, and from it the state and all other communities are formed. The state he defined as a government of households; it is the *pater familias* who becomes a citizen when he steps outside the house and acts in concert with other heads of families. Many associations of families arise for common defence and for the pursuit of mutual advantages—villages, cities, and corporations of various kinds—and when these are united by a sovereign authority, a state is formed. The actual formation of this last combination Bodin attributed as a rule to force, though it was certainly not his opinion that sovereignty, or lawful rule, is justified merely by its power.

In this derivation of the state, Bodin's motive is easier to understand than his logic. He had in his make-up a large measure of Puritanical censoriousness, and the power of the father was meant to be a means of social purification. More important than this, however, was his desire to build an impregnable bulwark to protect private property.

Communism, both in the theories of Plato and More and in the supposed practices of the Anabaptists, was an object of repeated criticism with him, and property he regarded as an attribute of the family. The family is the sphere of the private; the state is that of the public or common. Hence he aimed at a radical separation of the two. Sovereignty he believed to be different in kind from ownership; the prince is in no sense the proprietor of the public domain and cannot alienate it. Property belongs to the family, sovereignty to the prince and his magistrates. As the theory develops, the right of property inherent in the family puts a definite limit even to the power of the sovereign. Unfortunately for the clarity of the theory, it is impossible to see on what this inviolable right of the family is based. Bodin's argument for the power of the father was largely authoritarian, consisting of citations from Scripture and Roman law. For the rest he merely followed Aristotle in arguing that men are the embodiment of reason, as against the more passionate nature of women and the immaturity of children. The right of property he, of course, considered to be rooted in the law of nature. Without much exaggeration Bodin might be said to make the possession of property simply a natural right, somewhat after the fashion of Locke, except that it inheres in the family rather than the individual. But to combine an inalienable right in the family with an absolute power in the state made an insuperable logical difficulty.

If it really was Bodin's purpose to distinguish clearly between the political power of the sovereign and the private rights and powers of the heads of families, he ought to have considered carefully the transition from those spontaneous groupings of families where sovereign power is lacking to the state where it is present. In point of fact he had no clear theory of this transition, just as he had no clear theory of the ends which the state ought to secure. The family and such groups of families as the village or the city he attributed to the natural needs and desires of men—sexual impulse, the care of offspring, defence, and innate sociability. The origin of the state he usually attributed to conquest, and yet he was as far as possible from believing that force is self-justifying or that it forms the primary attribute of the state after it is founded. Superior force may make a band of robbers but not a state. Just what natural needs give rise to the state over and above those supplied by the family and other groups, or why the citizen ought to render obedience to his sovereign, or precisely the nature of the change which transforms a group of families into a true state, he left obscure. The only points that are perfectly clear are that a well-ordered state cannot exist until a sovereign power is recognized and that the units of which it is composed are families. This was a major defect of theoretical construction, because his theory of sovereignty was left standing merely as a definition of something which sometimes exists

but for which he has no explanation. He eliminated the mandate of God, which the theory of divine right offered as a foundation for the king's authority, but he did not fill the gap with a natural explanation.

SOVEREIGNTY

Bodin's statement of the principle of sovereignty is generally agreed to be the most important part of his political philosophy. The presence of sovereign power is taken by him to be the mark which distinguishes the state from all the other groupings into which families fall. Accordingly he began by defining citizenship as subjection to a sovereign. The defining conceptions of the state are sovereign and subject, a view which logically places social, ethical, and religious relationships outside the bounds of political theory. As Bodin urged, innumerable other relations may subsist between citizens besides subjection to a common sovereign, but it is subjection which makes them citizens. They may or may not have a common language and religion. Various groups of them may have peculiar laws or local customs which are countenanced by the sovereign. The burghers of a city may have recognized privileges or immunities, and a corporate body may be permitted to make and enforce its own rules for certain purposes. A grouping of this kind, where law, language, religion, and custom are identical, Bodin called a *cité*, a term which corresponds roughly to the idea of a nation, at least in the sense that it suggests a social union rather than a formal political bond. The *cité* is not a state (*république*); the latter exists only where the citizens are subject to the rule of a common sovereign. The relation of this conception to the political problems of Bodin's own time is manifest. He is urging, in the manner of the Politiques, that the political bond may be self-sufficient even though the political community be divided by differences of religion and by the survival of local, customary, and class immunities. The essential element of the political community is the presence of a common sovereign.

Bodin's next step was to define sovereignty as "supreme power over citizens and subjects, unrestrained by law" and to analyse the conception of supreme power. It is in the first place, perpetual as distinguished from any grant of power that is limited to a specific period of time. It is undelegated, or delegated without limit or condition. It is inalienable and not subject to prescription. It is unrestrained by law because the sovereign is the source of law. The sovereign cannot bind himself or his successors and he cannot be made legally accountable to his subjects, though Bodin had no doubt that the sovereign was answerable to God and subject to natural law. The law of the land is simply the sovereign's command and accordingly any limitation on the power to command must be extra-legal. The primary

attribute of sovereignty is the power to give laws to citizens collectively and severally, without the consent of a superior, an equal, or an inferior. The other attributes—the power to declare war and treat for peace, to commission magistrates, to act as a court of last resort, to grant dispensations, to coin money, and to tax—are all consequences of the sovereign's position as legal head of the state. As Bodin was careful to explain, this implies also the sovereign's control over customary law, which he sanctions by permitting it to exist. Enactment, Bodin holds, can change custom, but not custom enactment.

This principle of a unified legal headship as the mark of a true state was applied with great clearness by Bodin to the ancient theory of forms of government. From his point of view every government which is not to be a prey to anarchy, every 'well-ordered state,' must have in it somewhere this indivisible source of authority. Hence different forms of government can vary only in the location of this power. There are no forms of *state*, though there are forms of government. In a monarchy sovereignty resides in the king and, therefore, the function of the estates is advisory only, as Bodin believed was the case in France and England. It is expedient for monarchs to consult their advisers, but it cannot be mandatory, and the monarch cannot be legally bound by the advice given. If a king, so called, is bound by an act of the estates, then sovereignty really resides in the assembly and the government is an aristocracy. This is the case, according to Bodin, in the empire of his day. Again, if the final power of decision and review rests with some sort of popular body, then the government is democratic. In short, there is no such thing as a mixed state. Either there is no undivided sovereign power, and in that case there is no well-ordered state, or this power resides in some one place, whether it be king, assembly, or populace. Bodin's treatment of forms of government implies a clear-cut distinction between state and government. The state consists in the possession of sovereign power; government consists in the apparatus through which such power is exercised. A monarch may delegate his power widely and therefore govern popularly while a democracy may govern despotically.

The theory of sovereignty was applied by Bodin also in his discussion of the subordinate parts of the state. In a monarchy the functions of parliament must be advisory. Similarly the power exercised by magistrates is delegated by the sovereign. Again, all the corporate bodies which exist within the state—religious bodies, municipalities, and commercial companies—owe their powers and privileges to the will of the sovereign. Bodin took for granted the existence of great numbers of such bodies, as was natural in his time, and also their possession of considerable powers of self-direction. He was even favourable to such a policy of practical decentralization. What he was most concerned to urge was that all corporate bodies exist only by the sovereign's

permission and that all their powers are derived from his consent. As in the case of customary law, the powers of corporations are constructively derived from the state, even though they may rest upon ancient usage and not upon charter or statute. It was a prime object of the *Republic* to represent the king of France as the head of the entire political organization, though Bodin had no desire for a radical destruction of ancient corporations such as actually took place at the time of the French Revolution. His purpose was to make a foothold for the rights of the monarchy against all the survivors of the feudal age. It is significant that he treated the estates as merely one of the corporations which the sovereign permits, along with trading companies and ecclesiastical bodies.

LIMITATIONS ON SOVEREIGNTY

The preceding account of Bodin's theory of sovereign power takes account only of the parts of his argument which are straightforward and free from difficulties. In its entirety, however, the argument was by no means so simple, but contained serious confusions which must be noted in order to complete the picture. In general, sovereignty meant for Bodin a perpetual, humanly unlimited, and unconditional right to make, interpret, and execute law. The existence of such a right he believed to be necessary to any well-ordered state, forming the characteristic difference between a developed political body and more primitive groups. But the exercise of sovereign power which he regarded as justifiable was by no means so unlimited as his definitions imply, and the result is a series of restrictions that introduce a great amount of confusion into the finished theory.

In the first place, Bodin never doubted that the sovereign was bound by the law of God and of nature. Though he defined law as a sheer act of the sovereign's will, he never supposed that the sovereign could make right by mere fiat. For him as for all his contemporaries, the law of nature stands above human law, and sets certain unchangeable standards of right; it is the observance of this law that distinguishes the true state from mere effective violence. There is, of course, no way to make the sovereign legally liable for violating the law of nature. Still, natural law does impose some real disabilities on him. In particular, it requires the keeping of agreements and respect for private property. The sovereign's agreements may involve political obligations towards his subjects or towards other sovereigns, and in such cases Bodin had no doubt that he was bound. It was difficult if not impossible for him to keep these obligations of the sovereign exclusively on a moral plane and so apart from legal and political obligations. What, for example, would be the duty of a magistrate if the sovereign were to command something contrary to natural law? Bodin had no doubt

that there might be cases so flagrant that the sovereign ought to be disobeyed. He did all he could to reduce such cases to the narrowest limits, but the confusion was none the less there. Law is at once the will of the sovereign and an expression of eternal justice; yet the two may be in conflict.

A second confusion in Bodin's theory of sovereignty arose from his fidelity to the constitutional law of France. All his natural inclinations, both as a lawyer and a moralist, were on the side of constitutional government and respect for the ancient usages and practices of the realm. In common with the prevailing legal opinion of his time, he recognized that there were certain things which the king of France could not lawfully do. Specifically, he could not modify the succession and he could not alienate any part of the public domain; yet he was convinced that the king of France was sovereign in the full sense of the word, in fact, was the example *par excellence* of a sovereign. He admitted the existence of a peculiar class of laws which are necessarily connected with the exercise of sovereignty itself and which even the sovereign cannot change. These he called *leges imperii*, implying apparently that sovereignty itself would vanish with their violation. The confusion here is manifest; the sovereign is at once the source of law and the subject of certain constitutional laws which he has not made and cannot change.

The fact is that Bodin had two purposes which were united rather by circumstances than by logic. He was seeking to increase and consolidate the powers of the crown, because this was necessary in the circumstances, but he was also a convinced constitutionalist bent on saving and perpetuating the ancient institutions of the realm. Neither on logical nor historical grounds could the realm be identified with the crown. The idea behind the *leges imperii* was that, except as an element of the realm, the crown would have neither existence nor power; the idea behind the definition of sovereignty was that the crown is the chief legislative and executive organ in the realm. These two propositions are not incompatible, but there is room for endless confusion when they are both loosely combined in the conception of sovereignty. To make a really systematic theory, Bodin would have had to make up his mind which of the two was fundamental. For if sovereignty means essentially the supremacy of the prince, then the political community has no existence except by virtue of the relation between the prince and his subjects, and it is impossible that the realm should have laws of its own which the prince cannot change. Substantially this is the line of thought which Hobbes, starting partly from Bodin, later developed. On the other hand, if the state is a political community having laws and a constitution of its own, it is impossible that the sovereign should be identified with the prince.

Bodin's confusion on this point was due partly, no doubt, to his

immediate purpose: he could hardly have combated revolution by inculcating loyalty to a juristic abstraction. For this purpose a visible and tangible king, the vicar of God on earth, was altogether the more appealing idea, at least until national sentiment had given the nation itself solidity enough to make the king dispensable. On the other hand, a visible king is not easy to insert into a system of juristic concepts. In part, however, the confusion was deeply involved in the method of political philosophy which Bodin was trying to follow. This method contemplated the combination of history and philosophy, of factual evolution and logical analysis. From the point of view of history the realm of France, the political community, would almost necessarily be taken as a single social being, continuous and self-identical through an indefinitely long series of gradual changes. From the point of view of analysis it would be almost equally necessary to make a cross-section through the historical stream and consider the formal relations between the parts of the legal constitution. No analysis would fit all stages of the history, and for this reason the history would violate the canons of any formal analysis. Bodin was undertaking something that was difficult perhaps to the point of impossibility. His confusions about the *leges imperii* make a starting-point for the long controversy between an analytic and an historical method in jurisprudence.

There was still a third confusion in Bodin's theory of sovereignty more immediately serious than the two already mentioned. This concerned his very strong convictions about the inviolability of private property. This right is guaranteed by the law of nature but it constituted for Bodin more than a moral limitation on the power of the sovereign. So sacred is property that the sovereign cannot touch it without the owner's consent. Accordingly he asserted that taxation requires the assent of the estates. But there is nothing whatever about taxation to justify Bodin in thus setting it apart from other legislation, and he had denied in the most explicit fashion that the estates can act in any but an advisory capacity in the making of law. Indeed, the very existence of the estates depended upon the delegation by the sovereign of a qualified authority to a subordinate corporation.

In this case the confusion amounts to a flat contradiction, arising from the defective organization of his theory already referred to. The right of property he considered to be an indefeasible attribute of the family, and the family is an independently existing unit out of which the state is constructed. A well-ordered state, however, requires a sovereign whose legal power is unlimited. Thus Bodin's state contained two absolutes: the indefeasible rights of the family and the unlimited legislative power of the sovereign. Of the two, the rights of property were more fundamental to his thought, at least in the sense that they formed standing convictions about which he hardly felt the need for argument. The unlimited power of the sovereign had a more

occasional origin in the dangers produced by the religious wars.[1] If Bodin ever tried seriously to justify to himself the discrepancy between the two positions, he probably followed a line of thought similar to that used in the treatment of the *leges imperii*. The rights of property are essential to the family and the family is essential to the state; but the power to tax is the power to destroy; and the state cannot possess the power to destroy its own members. At all events he was perfectly explicit in asserting that taxation requires assent and in treating it as an inherent limitation on sovereignty, like the *leges imperii*. Logically his thought breaks in two at the point where the theory of the family ought to be joined to the theory of the state.

THE WELL-ORDERED STATE

The remainder of the *Republic* discussed a multitude of subjects but added nothing to the outlines of the theory. It examined exhaustively the causes and prevention of revolutions, again following the lead of Aristotle. In accord with his general theory, Bodin defined revolution as a displacement of sovereignty. No matter how much laws may change, a revolution does not take place so long as sovereignty resides in the same place. He enumerated many causes of revolution, of various degrees of importance. In general there is little order in this part of the book, though many of Bodin's observations were judicious. His discussion of the prevision of revolutions was a curious excursion into the uses of astrology for this purpose, while his analysis of the means for preventing them led him to cover every branch of administration and permitted him to display a really great fund of political acumen and wisdom. Broadly speaking, this part of the work was an exposition of the policy of the Politiques. The king, he holds, should not ally himself with any faction, but should follow a policy of conciliation, using repression cautiously and only where there is a strong probability of success. The most significant aspect of the argument was his firm defence of religious toleration, which, however, he here treated rather as a policy than a principle. He later dealt more philosophically with the subject in the extraordinary dialogue called the *Heptaplomeres*, a work which for obvious reasons it was impossible to publish in the sixteenth century.[2]

The examination of revolutions led to the more general subject of the relation of physical environment to national characteristics. Here,

[1] R. Chauviré in his *Jean Bodin* (pp. 271 ff.) holds that there is a significant difference between the *Methodus*, written in 1566, and the *République*, written in 1576. The former was preoccupied with limitations on royal power, the latter with removing them. The difference he attributes to the circumstances that arose in the intervening ten years.

[2] See "The Colloquium Heptaplomeres of Jean Bodin," by George H. Sabine, in *Persecution and Liberty* (New York, 1931).

also, Bodin started from Aristotle but greatly elaborated the whole subject. Northern peoples, he believed, are large and physically vigorous, but slow of movement and of mind. Southerners are slight of build, vivacious in manner, and surpass in acuteness and ingenuity. For political purposes the middle region, where the two sets of qualities are mingled, is superior, as is shown by the fact that the great states, as well as the science of politics, have originated there. This portion of Bodin's work formed an integral part of his whole political philosophy and suggested the later speculations of Montesquieu on the subject, but he made no attempt to bring it into logical relation with his theory of sovereignty. Its presence in his system, however, marks the vast difference between Bodin and the theological controversialists who wrote most of the political theory of the time.

After this excursus Bodin passed on to consider the obligation of the sovereign to keep faith in treaties and alliances. Here he deplored the growing belief that princes are not bound by promises to their own disadvantage, the argument being aimed at Machiavelli. It showed a growing sense of the need for restraining absolute sovereigns in their international dealings, a need which eventuated some fifty years later in the effort of Grotius to formulate an international law. Finally, Bodin considered at length the financial policies of the state, its sources of revenue, and the desirability of various forms of taxation. Incidentally, he argued at length for the revival of the Roman censorship, partly as a means for obtaining exact information about the resources of the kingdom but largely as a means of moral purification.

The *Republic* was brought to a close with a chapter which in some measure may be regarded as containing the nerve of the whole book. Bodin compared the three forms of state in order to show the superiority of monarchy. Here, and indeed throughout, it is evident that he regarded a monarchy of the French type, or what he took to be the French type, as the only form of well-ordered state. Heredity and even the Salic Law, he tried to prove, were founded not only in custom but in reason. In spite of his previous admission that sovereignty may be vested in an aristocracy or in the people, he was convinced that in practice this leads to anarchy and to the ruin of subjects as well as rulers. The only really "well-ordered state" is one in which sovereignty is undivided because it resides in a single person. This distinction of possible states and the one well-ordered state runs all through Bodin's work, but it is a source of unclearness because it is not steadily maintained. He was never quite certain whether sovereignty is a quality which it is desirable for the state to possess but which actual states sometimes lack, or whether it was a quality which every state must of necessity possess. In general, he preferred to defend the theory as if it were a universal logical necessity, and yet he really believed that many or perhaps most states do not rise to the level of a well-ordered monarchy, in which alone undivided sovereignty is possible. The

confusion of the necessary with the desirable is a fault to which the project for uniting philosophy and history was peculiarly prone. Like many later philosophers who had a similar aim, Bodin stated what was really a programme of reform under the guise of a pronouncement of eternal truth.

Despite the many confusions in his thought, Bodin's political philosophy was a work of no slight importance. Compared with any other work of the second half of the sixteenth century it was broadly conceived and impressively executed. The neglect into which the *Republic* soon fell was due more to its manner than its substance, and many books of less weight survived longer. At the same time, Bodin's system was not a philosophical construction of the first rank. Its two sides—constitutionalism and centralized power—were not really drawn together. Natural law, upon which the structure everywhere rested, was accepted as a tradition and was never analysed or solidly based. The theory of sovereignty, though Bodin's statement of it was the clearest given in the sixteenth century, floats in the air, a feat of definition rather than of explanation. The ends of a well-ordered state, the nature of the subject's obligation to obey, and the relation between the state and its constituent families all require further analysis. But from this unclearness two problems emerged which largely occupied the attention of political philosophy in the century after Bodin. One was the theory of sovereignty in terms of power—the definition of the state as a relation between political inferiors and a political superior and of law as a command. This conception was systematically developed by Hobbes. The other was a modernizing and secularizing of the ancient theory of natural law, in order to find if possible an ethical and yet a not merely authoritarian foundation for political power. This revision was chiefly the work of Grotius and Locke. So successful was it that natural law became, in the estimation of the seventeenth and eighteenth centuries, the valid scientific form of political theory.

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CHAPTER XXI

THE MODERNIZED THEORY OF NATURAL LAW

THE opening decades of the seventeenth century began a gradual process of releasing political philosophy from the association with theology which had been characteristic of its earlier history throughout the Christian era. The release which came in the seventeenth century was made possible by a gradual recession of religious controversy and by a gradual secularizing of the issues with which political theory had to deal. It was furthered also by a secularizing of intellectual interests which was inherent in the return of scholarship to antiquity and the spread through northern Europe of the admiration for Greece and Rome already so conspicuous in the Italian scholars of Machiavelli's generation. Stoicism, Platonism, and a modernized understanding of Aristotle brought into being a degree of naturalism and rationalism such as the study of Aristotle in the fourteenth century had not been able to produce. Finally, an indirect effect in the same direction was produced by epoch-making progress in the mathematical and physical sciences. Social phenomena generally, and political relationships in particular, began to be conceived as natural occurrences, open to study by observation and more especially by logical analysis and deduction, in which revelation or any other supernatural element had no important place.

This tendency to set political and social theory free from theology was already perceptible in the later Jesuit writers, even though their purpose was in part to support the indirect power of the papacy over secular governments. Their argument stressed the secular and human origin of government, in order that the divine right of the pope might be given a unique place in the category of authorities. Thus the political theory and the jurisprudence of Suarez, though parts of a scholastic philosophy, could be detached from theology without suffering serious mutilation. In the Calvinist writers of the early seventeenth century a similar secularization of interest occurred, though Calvinism probably retarded rather than aided the process. The doctrine of predestination, in its original Calvinist meaning, tied up all moral and social questions with the free grace of God and made every natural phenomenon an incident in a personal and voluntary government of the world. Whatever affinity Calvinist theology may have had with Puritan middle-class morality, it had none at all with a rational

explanation of moral phenomena, but the contrary. On the other hand, the expunging of the Canon Law from Protestant systems made necessary a more radical break with the Middle Ages than was required of the Jesuits. Suarez could produce a somewhat modernized form of medieval jurisprudence, but the Calvinists, once the strict ties of Calvinism were relaxed, could more easily revert to pre-Christian conceptions of natural law. The critical event in the history of Calvinist theology, so far as political theory was concerned, was the controversy aroused by Arminius and the Remonstrants in Holland, which set Hugo Grotius free from the bondage of strict Calvinism and fortified him in the humanist tradition of Erasmus.[1]

ALTHUSIUS

Even before Grotius, however, the relationship of natural law to theology had begun to wear thin for some writers with Calvinist affiliations. This was notably true of Johannes Althusius, who continued and elaborated the anti-royalist theory of the French Calvinists.[2] His book on politics was in no sense a controversial tract but, as the name signifies, a systematic treatise on all forms of human association, including the state. Like Grotius, Althusius objected to the mixture of jurisprudence and politics in Bodin, and therefore made a point of separating them. His separation, however, affected somewhat unfortunately his theory of politics. Though his position depended upon the conception of natural law, he never followed this to a thoroughgoing revision of its principles. Like other Calvinist writers he identified natural law with the second table of the Decalogue,[3] but thereby he did less than justice to his own thought, because in fact his theory of society depended in no essential respect upon this implied religious authority. The truth is, as Gierke says, that Althusius was more clear than profound and devoted himself rather to formal definition than to a philosophical analysis of principles.[4]

Within these limits he developed a political theory which was both interesting and important, because it depended logically upon the single idea of contract and owed substantially nothing to religious authority. In effect, therefore, it was a naturalistic theory, in so far as contract may be called a natural relationship. Althusius's contract was, in fact, very much like the innate social propensity which had figured in Stoic theory and which played an even clearer part in the

[1] Cf. Ernst Cassirer, *Die Philosophie der Aufklärung* (1932), p. 320.

[2] His *Politica methodice digesta* was first published in 1603, and in an extended form in 1610. A modern edition, with some omissions, was edited by C. J. Friedrich (Cambridge, Mass., 1932).

[3] In another field, this tendency to identify natural law with the law of Moses occurs in Bodin's curious association of natural religion with primitive Judaism.

[4] Otto von Gierke, *Johannes Althusius* (1913), pp. 16 f.

philosophy of Grotius. The important point was that Althusius raised it to the level of a sufficient explanation of human social groupings, thus leaving nothing to be explained by an appeal to theological sanctions. The effect was to produce a theory much closer to the actual spirit of Aristotle than the more explicitly Aristotelian theories of the scholastics. Althusius was not very far from saying that the association of men in groups is simply a natural fact, as much an intrinsic part of human nature as anything else, and accordingly that a society was not, in Hobbes's phrase, "an artificial body" to be explained by extraneous causes. The idea of contract was not very well suited to express this thought, but was quite in accord with the individualism which marked all theories of natural law, especially after the writings of Hobbes.

The contract figured in two ways in Althusius's theory: it had a more specifically political rôle in explaining the relations between a ruler and his people, and a general sociological rôle in explaining the existence of any group whatever. The first corresponded to a contract of government, the second to a social contract in a broader sense. In the latter use a tacit agreement underlies any association or *consociatio*, a word which corresponds to Aristotle's use of community. By this agreement persons become "dwellers together" (*symbiotici*) and sharers in the goods, services, or laws which the association creates and sustains. Any association has, therefore, its twofold 'law' which defines on the one hand the kind of community existing between the members and on the other creates and limits an authority for administering its common affairs. Althusius offers an elaborate dichotomous classification of associations, but in brief he may be said to distinguish five chief kinds, each more complex sort arising as a combination of the preceding simpler ones: the family, the voluntary corporation (*collegium*), the local community, the province, and the state. In the more advanced groups the underlying associations rather than individual persons are the contracting parties, and in each case the new group assumes the regulation only of such acts as are necessary to its purposes, leaving the rest in the control of the more primitive groups. There occurs, therefore, a series of social contracts by which various social groups, some political and some not, come into being. This is the basis for Althusius's theory of the state.

The state forms one of this series. It arises by the association of provinces or local communities and its differentia, as compared with any other group, is sovereign power (*majestas*). Here the influence of Bodin upon Althusius was evident, as well as his purpose to avoid some of the confusions in Bodin's theory. The most important aspect of Althusius's theory was that he made sovereignty reside necessarily in the people as a corporate body. They are incapable of parting with it because it is a characteristic of that specific kind of association. Consequently it is never alienated and never passes into the possession of a

ruling class or family. Power is bestowed upon the administrative officers of a state by the law of the state. This forms the second of Althusius's two kinds of contract, an agreement by which the corporate body imparts power to its administrators to make the purposes of the corporation effective. It follows that this power reverts to the people if the holder of it should for any reason forfeit it. This theory was the clearest statement of popular sovereignty that had so far appeared. It avoided the difficulties in Bodin's theory, which had arisen because of his confusion between the sovereign and the monarch, and which had led him to describe sovereignty as at once unlimited and yet incapable of changing certain provisions of the historical constitution. It is clearer also than the account of sovereignty later given by Grotius, since it does not confuse public authority with a patrimonial power inherent in the ownership of land.

Althusius's defence of the right to resist tyranny followed pretty closely in the track of the earlier Calvinist theories. This right does not belong to individuals but must be exercised through a special class of magistrates, called 'ephors,' who are the appointed guardians of the community's rights. The ephors correspond to the inferior magistrates of Calvin and the *Vindiciae contra tyrannos*. Althusius's theory, however, was better based, because the whole structure of his state was federal. The contracting parties which produce the state are not individuals but communities, which, though not sovereign, have the inherent capacity for giving effect to their own ends which all corporate bodies possess. It has been pointed out in a preceding chapter that an approximation to federalism occurred in the *Vindiciae contra tyrannos*, which, in the circumstances prevailing in France, could hardly be anything except a reversion to feudal privileges and exemptions. The case was different in the Netherlands, where central government really was founded upon a confederation of provinces diverse in religion, language, and national sentiment. Althusius's description of the state as a community in which several cities and provinces have bound themselves by a common law offered a better principle for limiting the power of a chief magistrate than a theory which contemplated a union of individuals under a sovereign ruler. Unfortunately it had little application in France and England, where the political thinking of the sixteenth and seventeenth centuries mainly took place. This fact was perhaps one of the reasons why Althusius's work fell into oblivion.

The political theory of Althusius, so far as it went, was remarkably clear and consistent. It reduced the whole range of political and social relationships to the one principle of consent or contract. The compact, express or tacit, was made to account for society itself, or rather for a whole series of societies, of which the state was one. It offered a logical basis for the element of authority inherent in any group,

which appears in the state specifically as the sovereign public authority of the group itself, and it afforded a plausible ground for the legal limitation of executives and for a right to resist a tyrannous exercise of executive power. The great virtue of the theory was its clearness. In substance Althusius had made himself independent of any religious sanction for authority, since he treated associations as self-sufficing, at least within the limits set by the purposes which each kind of association was meant to serve. For the principle of consent itself, the contractual obligation upon which he made the right of every association depend, he offered no philosophical foundation at all. Doubtless he regarded the sanctity of contract as a principle of natural law, and he was content to refer natural law for its validity to the Decalogue. To be sure, he made no use of this reference, and his theory would be just as strong without it, but at the crucial point his thought had no foundation except a Scriptural authority. In part this was due to an element of superficiality in his own thinking, but in part also it was probably due to the fact that he had not made himself independent of Calvinism. His conception of nature was tied to the essentially supernatural principle of predestination. The final step in detaching natural law altogether from its entanglement with religious authority was made not by Althusius but by the more philosophically minded Grotius.[1]

GROTIUS: NATURAL LAW

It must be admitted, however, that Grotius was less clear than Althusius in his treatment specifically of sovereignty and the state. The subject had only incidental importance for him, and its bearing on international relations made the constitutional powers of rulers more significant than the theoretical principles of sovereignty itself. Consequently Grotius, more than Althusius, was hampered in his thinking about philosophical principles by his fidelity to the letter of positive law. After defining sovereignty as a power not subject to the legal control of another, he distinguished between a common and a special possessor, or subject, of the power. The common subject of sovereignty is the state itself; the special subject is one or more persons, according to the constitutional law of each state. The sovereign is therefore either the political body itself (Althusius's state) or the government, a use of terms which hardly made for clearness. He reverted also to the view of the Civilians that a people can wholly divest itself of its sovereign power, and to the feudal identification of public authority with a patrimonial power over land,

[1] The *De jure belli ac pacis* was first published in 1625. The edition of 1646 has been photographically reproduced (Washington, 1913), with an English translation by Francis W. Kelsey and others (Oxford, 1925), as No. 3 of "The Classics of International Law."

which can be acquired by conquest, transferred, or devised. The result was that sovereignty as a specific property of the state itself was lost to sight in a flood of details that have to do not with a general theory but only with the constitutional powers of specific rulers.

Grotius's importance in the history of jurisprudence rests not upon a theory of the state or upon anything that he had to say about constitutional law, but upon his conception of a law regulating the relations between sovereign states. The practical urgency of the problem in the seventeenth century need hardly be stressed. Always a fertile field for disorder, the relations between independent political powers had become ever more chaotic with the breakdown of such feeble restraints as the medieval church had occasionally applied. The rise of the absolute monarchies and the more or less frank acceptance of a Machiavellian conception of the relations between them made force the arbiter in the dealings of states with states. To this must be added the effects of the religious wars which followed the Reformation, bringing to international relations the intrinsic bitterness of religious hatred and affording the colour of good conscience to the most barefaced schemes of dynastic aggrandizement. And behind overt political ambitions lay the economic baits which led the western European nations along the road of expansion, colonization, commercial aggrandizement, and the exploitation of newly discovered territory. There were ample reasons why Grotius should have believed that the welfare of mankind required a comprehensive and systematic treatment of the rules governing the mutual relations among states.

> Such a work is all the more necessary because in our day, as in former times, there is no lack of men who view this branch of law with contempt as having no reality outside of an empty name.[1]

Grotius's contribution to the special subject of international law is beyond the limits of a history of political theory. In respect to the latter his importance lay in the philosophical principles upon which he sought to found his special subject and which he set out especially in the Prolegomena to his great work. In the seventeenth century it was a foregone conclusion that he should appeal to the generally admitted idea of a fundamental law, or law of nature, lying behind the civil law of every nation, and binding, because of its intrinsic justice, upon all peoples and upon subjects and rulers alike. In the long tradition of Christian political thought no writer had denied, or even doubted, the validity of such a law. To the fact of validity Grotius need hardly address himself. But with the breaking up of Christian unity and the decline of Christian authority the grounds of this validity called urgently for re-examination. Neither the authority of the church nor the authority of Scripture, in fact, no

[1] Prolegomena, sect. 3 (Kelsey's translation).

form of religious revelation, could establish the foundation of a law binding alike on Protestant and Catholic peoples, and governing the relations between Christian and non-Christian rulers. It was natural that Grotius, with his background of humanistic training, should turn back to the even older, pre-Christian, tradition of natural law which he found in the writers of classical antiquity. Thus he chose, as Cicero had done before him, to put his examination of the grounds of natural law into the form of a debate with the sceptical critic of the Stoic philosophy, Carneades.[1]

The point of Carneades's refutation of natural justice lay in the argument that all human conduct is motived by self-interest and that law is, in consequence, merely a social convention generally beneficial and supported not by a sense of justice but by prudence. Grotius's answer was, in brief, that such an appeal to utility is essentially ambiguous since men are inherently sociable beings. As a result the maintenance of society itself is a major utility which is not measured by any private benefits (other than the satisfaction of their sociable impulses) accruing to individuals.

> Man is, to be sure, an animal, but an animal of a superior kind, much farther removed from all other animals than the different kinds of animals are from one another. . . . But among the traits characteristic of man is an impelling desire for society, that is, for the social life—not of any and every sort, but peaceful, and organized according to the measure of his intelligence, with those who are of his own kind; this social trend the Stoics called 'sociableness.'[2]

Hence the preservation of a peaceful social order is itself an intrinsic good, and the conditions required for that purpose are as binding as those which serve more strictly private ends.

> This maintenance of the social order, which we have roughly sketched, and which is consonant with human intelligence, is the source of law properly so called. To this sphere of law belong the abstaining from that which is another's, the restoration to another of anything of his which we may have, together with any gain which we may have received from it; the obligation to fulfil promises, the making good of a loss incurred through our fault, and the inflicting of penalties upon men according to their deserts.[3]

There are, then, certain minimal conditions or values which must be realized, human nature being what it is, if an orderly society is to persist. Specifically these are, in the main, the security of property, good faith, fair dealing, and a general agreement between the consequences of men's conduct and their deserts. These conditions are not the result of voluntary choice or the product of convention but rather the reverse; choice and convention follow the necessities of the case.

[1] The account of the debate in Cicero's *Republic* was preserved largely in Books V and VI of Lactantius's *Institutes*, whence Grotius doubtless took it. The relevant passages are now given as testimonia in any edition of the *Republic*.

[2] Prolegomena, sect. 6.

[3] *Ibid.*, sect. 8.

> For the very nature of man, which even if we had no lack of anything would lead us into the mutual relations of society, is the mother of the law of nature.[1]

At one further remove, however, this natural law gives rise to the positive law of states; the latter depends for its validity upon the underlying grounds of all social obligation and especially upon that of good faith in keeping covenants.

> For those who had associated themselves with some group, or had subjected themselves to a man or to men, had either expressly promised, or from the nature of the transaction must be understood impliedly to have promised, that they would conform to that which should have been determined, in the one case by the majority, in the other by those upon whom authority had been conferred.[2]

Within this framework of natural law Grotius believed that there was ample room for considerations of utility, which may well vary from people to people, and which also may dictate practices looking to the advantage of all nations in their international dealings. But certain broad principles of justice are natural—that is, universal and unchangeable—and upon these principles are erected the varying systems of municipal law, all depending upon the sanctity of covenants, and also international law, which depends upon the sanctity of covenants between rulers.

Grotius accordingly gave the following definition of natural law:

> The law of nature is a dictate of right reason, which points out that an act, according as it is or is not in conformity with rational nature, has in it a quality of moral baseness or moral necessity; and that, in consequence, such an act is either forbidden or enjoined by the author of nature, God.[3]

The precise meaning of this reference to the command of God is important. In point of fact, as Grotius was at pains to make clear, it added nothing to the definition and implied nothing in the way of a religious sanction. For the law of nature would enjoin exactly the same if, by hypothesis, there were no God. Moreover, it cannot be changed by the will of God. The reason for this is that God's power does not extend to making true a proposition that is inherently self-contradictory; such a power would be not strength but weakness.

> Just as even God, then, cannot cause that two times two should not make four, so He cannot cause that that which is intrinsically evil be not evil.[4]

Hence there is nothing arbitrary in natural law more than there is in arithmetic. The dictates of right reason are whatever human nature and the nature of things imply that they must be. Will enters as one factor into the situation but the *sic volo, sic iubeo* of God or man does not

[1] Prolegomena, sect. 16. [2] *Ibid.*, sect. 15. [3] Bk. I, ch. i, sect. 10, 1.
[4] *Ibid.*, sect. 10, 5; cf. Prolegomena, sect. 11. A few expressions of similar import occur in writers before Grotius; see Gierke, *Althusius* (1913), p. 74, n. 45.

create the obligatory nature of the law. Referring to the authority of the Old Testament, Grotius distinguished carefully between commands which God gave to the Jews as a chosen people and which therefore depended merely upon divine will, and the evidence which it, along with other important documents, affords of natural human relationships. Nothing could show more clearly his independence of the system of divine sovereignty implicit in Calvinism.

MORAL AXIOMS AND DEMONSTRATION

The surpassing importance of this theory of natural law was not due to the content which Grotius attributed to it, for in this respect he followed the well-worn trails of the ancient lawyers. Good faith, substantial justice, and the sanctity of covenants had been at all times the rules to which a natural origin was attributed. The importance was methodological. It provided a rational, and what the seventeenth century could regard as a scientific, method for arriving at a body of propositions underlying political arrangements and the provisions of the positive law. It was essentially an appeal to reason, as the ancient versions of natural law had always been, but it gave a precision to the meaning of reason such as it had not had in an equal degree in antiquity. The references which Grotius frequently makes to mathematics are significant. Certain propositions in the law, like the proposition two times two equals four, are axiomatic; they are guaranteed by their clearness, simplicity, and self-evidence. No reasonable mind can doubt them, once they are accurately understood and clearly conceived; they form the elements of a rational insight into the fundamental nature of reality. Once grasped they form the principles by means of which systematic inference can construct a completely rational system of theorems. The identity of this method with what was supposed to be the procedure of geometry is obvious.

This quality was exactly what commended it to Grotius. He stated specifically that, like a mathematician, he proposed to withdraw his mind from every particular fact. In short, he intended to do for the law just what, as he understood the matter, was being done with success in mathematics or what Galileo was doing for physics.

> I have made it my concern to refer the proofs of things touching the law of nature to certain fundamental conceptions which are beyond question so that no one can deny them without doing violence to himself. For the principles of that law, if only you pay strict heed to them, are in themselves manifest and clear, almost as evident as are those things which we perceive by the external senses.[1]

Because of the prevalence of this idea of good method, the seventeenth century became the era of 'demonstrative' systems of law and politics,

[1] Prolegomena, sect. 39.

the purpose being to assimilate all sciences, the social as well as the physical, as much as possible to a form which was believed to account for the certainty of geometry. Of the English philosophers of the generation following Grotius, Thomas Hobbes followed this plan most consistently. In Holland Spinoza undertook to present his ethics in the form of a geometrical demonstration, with all the paraphernalia of axioms, theorems, scholia, and corollaries, and his *Political Treatise*, though lacking the form, was scarcely less rigorous in its procedure.[1] Samuel Pufendorf, in his great systematic treatise on natural and international law,[2] began by taking exception to Grotius's opinion that morals and mathematics are not equally certain. Nor was this ideal of demonstration confined to law and politics. It was extended to all branches of social study, producing the systems of natural religion and rational ethics that prevailed throughout the seventeenth and eighteenth centuries. Finally, it produced the systems of natural economy that continued to pass as economic science well into the nineteenth century. It would be impossible to exaggerate the importance that these conceptions had in the early modern development of social studies. Everywhere the system of natural law was believed to offer the valid scientific line of approach to social disciplines and the scientific guide to social practice.

The reason for the authority which this method acquired lay largely in the fact that it was believed to parallel the processes by which the physical sciences made dazzling progress in the interval between Galileo and Newton. These processes in turn were believed to depend upon the use of a method already well tried in geometry. A few years after Grotius wrote Descartes gave the method its classical philosophical statement in the *Discours de la méthode*: resolve every problem into its simplest elements; proceed only by the smallest steps so that each advance may be apparent and compelling; take nothing for granted that is not perfectly clear and distinct. It is evident that Descartes believed himself to be merely generalizing the process by which he had discovered the analytic geometry, and the remarks on method by a great experimental scientist like Galileo, interspersed in his dialogues on the new science of mechanics, were often to substantially the same effect. In the seventeenth century no sharp line was drawn, as would be done now, between mathematics and the physical sciences of experiment and observation, probably because the experimental data required in mechanics were not very great, while the mathematical apparatus was considerable. The method commended itself to scholars generally, and to students of law and politics in particular, not because

[1] The *Ethics* and the *Political Treatise* were published posthumously in 1677; English translation by R. H. M. Elwes, 2 vols., in Bohn's Philosophical Library.

[2] *De jure naturae et gentium* (Lund, 1672); English translation by Basil Kennet (London, 1710).

they expected, like the physicists, to make any use of mathematics, but because the logical ideals of analysis, simplicity, and self-evident clarity appeared to be equally applicable to all subject-matters. They were, moreover, the perfect solvents for authority and mere customary belief. The appeal to reason in the early rationalists was directed against dogmatism and the blind following of tradition.

It was the development of the deductive technique itself that gradually brought to light an ambiguity inherent in the system of natural law, namely, the twofold use of the word truth to mean sometimes the logical dependence of a conclusion on its premises and sometimes the factual existence of the things or events referred to. This formalizing of deductive procedure led in time to a contrast between rational truth and factual data, but among the earlier rationalists, whether in science or law, the appeal to reason was not intended to exclude observation and the accumulation of fact. They believed that reason itself provided an unshakable framework of axiomatic principles and necessary deductions, but within this system they accepted as a matter of course great bodies of empirical fact that had to be learned by observation. Thus Grotius never doubted that much law was due to what he called 'free will,' that is, enactment, and might perfectly well be changed without violating reason. Some relationships, however, are 'necessary'; neither will nor authority can change them. While they leave a considerable range within which positive law may vary, they definitely rule out certain combinations. Some such conception as this with respect to natural and positive law was generally accepted. More than a century later it was still a commonplace, witness the words with which Montesquieu opened the *Spirit of the Laws*:

> Laws, in their most general signification, are the necessary relations arising from the nature of things.

The practical utility of the theory of natural law depended largely upon the fact that it introduced a normative element into law and politics, a body of transcendent values, such as justice, good faith, and fair dealing, by which the performance of positive law could be judged. It was, therefore, the antecedent of all later efforts to moralize the law, such as Rudolf Stammler's theory of 'just' law, and even of utilitarian theories such as those of Ihering and Bentham, which retained elements of natural law even while rejecting it in principle. Broadly speaking, the whole point of view, like that of most seventeenth-century science, was Platonic; the Platonism of Grotius's Prolegomena is unmistakable. The law of nature was an 'idea,' a type or model like the perfect geometrical figure, to which existence approximates but which does not derive its validity from agreement with fact. It was for this reason that *ius gentium*, in the old sense of common practice,

could be redefined as international law, since common practice was at most only an indication, and not necessarily a very good indication, of what was reasonable.[1] The rational was supposed to fix its own standard of value to which rulers ought to make the positive law conform. It was a standard of *good* practice to be set against the frequent unreasonableness of customary or conventional practice.

Consequently, the appeal to reason and natural law contained another possible ambiguity, in addition to that already mentioned between factual truth and logical implication. This is the ambiguity between logical and moral necessity. The system of natural law always assumed that its self-evident propositions were, at least in some cases, normative, setting up an ideal standard not only of what is but of what ought to be. Yet the necessity of an axiom in geometry and the necessity that law should be just are pretty clearly two different kinds of necessity, since the latter refers to the realizing of human ends and purposes. Even though it were true, as Grotius argued, that justice consists in a conformity of the law to underlying principles of human nature, the latter forms a highly complicated and changeable body of facts; the proposition that any values hold good eternally is still far from self-evident. The system of natural law tended to prejudge the question whether values have any standing in nature. The only philosopher who seriously tried to face this problem in the seventeenth century was Spinoza. His ethics was intended to have no more reference to ends than mathematics and physics have, but it cannot be claimed that he avoided double meanings in his use of terms. In his political theory he tried consistently to reduce right to natural forces and to show that strong government in the long run must be good government. Here again he hardly did all that he undertook. Hobbes too had a metaphysical system in which transcendent values had no place, and his effort to square his materialism with the prevalent connotations of natural law proves nothing except that by the middle of the century this terminology had become mandatory. All his most important conclusions were taken over by the Benthamites, who denied natural law on principle. The critical analysis of the system of natural law and the discrimination of the double meanings contained in it were the work of David Hume about the middle of the eighteenth century.

CONTRACT AND INDIVIDUAL CONSENT

What gave unity to the system of natural law in politics was not the self-evidence of its principles but the circumstance that, for the time being, there was general agreement about what it was important

[1] Cf. Grotius's division of law into natural and volitional (i.e., positive); Bk. I, ch. i, sects. 10–17.

to insist upon. What seemed to nearly all thinkers axiomatic was that an obligation, to be really binding, must be freely assumed by the parties bound. The choices, wisely considered, may be inevitable when human nature is taken into account, but the compulsion is an inward one, flowing from the interests and the motives of the man himself. In the final analysis obligation cannot be imposed by force but is always self-imposed. It was this conviction which made all obligation appear under the guise of a promise; what a man promises he may reasonably be held to, since he has himself created the obligation by his own act. In the larger question of a man's obligation to the community in which he lives, it was common to say that there was *no* rational way to conceive the obligation except by attributing it to a promise. Whether such a covenant were historical or a methodological fiction, as Kant afterwards said, made little difference; in either case all binding obligation had to be represented as self-imposed. A sentence from Pufendorf, the equivalent of which could be found in a host of writers, will illustrate this:

> On the whole, to join a multitude, or many men, into one Compound Person, to which one general act may be ascribed, and to which certain rights belong, as 'tis opposed to particular members, and such rights as no particular member can claim separately from the rest; 'tis necessary, that they shall have first united their wills and powers by the intervention of covenants; without which, how a number of men, who are all naturally equal, should be link'd together, is impossible to be understood.[1]

As a consequence a political theory based on natural law contained two necessary elements: the contract by which a society or a government (or both) came into being and the state of nature which existed apart from the contract. The latter applied to two important cases: the relations of private individuals to one another and the relations between sovereign states. The agreements of these two kinds of contracting parties gave rise in the one case to municipal law and in the other to international law, both subject to the general principles of the law of nature. Both municipal and international law arise by covenant; both are binding because they are self-imposed. Theories of the form and nature of the contract might vary almost indefinitely. The idea that government depended upon a pact between ruler and people was much older than the modern theories of natural law, being implicit in the relation of a feudal lord to his vassals. In this older conception the people or the community figured as a corporate body. As the theory of natural law was developed it became apparent that this capacity of a people to contract needed explanation. The simplest explanation was to suppose two contracts, one by which the community itself was produced and binding its members to one another, and one between the community thus formed and its governing

[1] *Op. cit.*, Bk. VII, ch. ii, sect. 6 (Kennet's translation).

officials. By this means the idea of contract was made into a universal theory covering all forms of obligation and all forms of social grouping. This is the form which the theory took in Althusius and which was continued in Pufendorf.[1] English writers did not develop the theory so far: Hobbes suppressed the contract of government for his own purposes and Locke used both forms of contract without taking the trouble to distinguish them clearly. This was probably due to the fact that natural law never played the part in English jurisprudence that it did on the Continent.

The theory of contract, taken in the large, need not be used as a means of limiting the power of government or of defending resistance, though of course it frequently was so used. Hobbes and Spinoza bent it, or perhaps distorted it, to a defence of absolute power. Althusius and Locke used it to defend the thesis that political power is necessarily limited, and the latter made it the defence of a successful revolution. Perhaps most writers, like Grotius and Pufendorf, followed a middle course: without justifying resistance they stressed moral limitations on rulers. The real emphasis of the theory was that law and government fall within the general field of morals; they are not merely expressions of force but are properly subject to ethical criticism. On the whole, therefore, the theory had a general bias towards political liberalism.

The question whether the obligation of contract is really the most obvious of moral truths has long ceased to be of moment in political theory. What needs to be explained is why so many men, and on the whole the most enlightened, in the seventeenth century thought it self-evident. Probably in no century before or since was there so self-conscious a break with the past or so resolute an effort to win freedom from the dead hand of custom and tradition. In the seventeenth century thinkers were conscious, as they had not been since the classic age of Greek philosophy, of the whimsicality of unsupported habit, of the insignificance of mere inherited position, and of the uncouthness of force without intelligence. By common agreement the agent of human wellbeing was coming to be sought in the enlightened intelligence, and the great enemy of enlightenment seemed to be the blind acceptance of that which has no better credentials than its mere existence. To a self-confidence justifiably bred of successes in mathematical physics that made the century intellectually the most eminent of the modern age it seemed possible to begin construction from the very bottom, with only reason for a guide. Far in advance of any tangible accomplishment by modern science, the more enlightened already sensed, as Francis Bacon said, that knowledge is power. Moreover, the philosophy of the seventeenth century was, for the first time, a philosophy of the middle class. For the time being the middle class

[1] *Op. cit.*, Bk. VII, ch. ii., sect. 7–8.

was, generally speaking, on the side of liberalism, cosmopolitanism, enlightenment, and individualism.

Looking at its world with these preconceptions and convinced that it must start from what was self-evident, modern philosophy could find nothing apparently so solid and indubitable as individual human nature. The individual human being, with his interests, his enterprise, his desire for happiness and advancement, above all with his reason, which seemed the condition for a successful use of all his other faculties, appeared to be the foundation on which a stable society must be built. Traditional differences of status already began to seem precarious. Not man as a priest or a soldier, as the member of a guild or an estate, but man as a bare human being, a 'masterless man,' appeared to be the solid fact. Already it was possible to conceive a psychology which would lay bare the springs of action concealed in man as such. Some unity of nature he must have, some natural force distinctive of the kind, which might be stated with the precision now first becoming possible for the bodies that make up the world of matter. If this were true the local and temporal and individual peculiarities in his nature might be explained as deviations from a norm which on the whole remained constant. If there were such an unchangeable core in human nature, there must surely be some minimal conditions required to make possible man's stable combination in social groups and therefore some fundamental laws of good conduct and good government which no ruler could defy with impunity. The philosophy of natural law, of natural religion, of natural economy was rooted in both the intellectual and the social presumptions of the seventeenth century.

One outstanding fact, it seemed, required special explanation. Man the individual is also man the citizen or subject. This the theory of natural law believed to be deducible from his individual nature; it was certain but it was not self-evident. The assumed order of certainty was significant. Under other circumstances man as a member of an organized community might have figured as the axiom, as in general it did for Plato and Aristotle, and man as an individual as the derivative. For the theories of natural law, and more especially after Hobbes, it was membership that required explanation. Society is made for man, not man for society; it is humanity, as Kant said, that must always be treated as an end and not a means. The individual is both logically and ethically prior. To the philosophy of the seventeenth century relations always appeared thinner than substances; man was the substance, society the relation. It was this assumed priority of the individual which became the most marked and the most persistent quality of the theory of natural law, and the clearest differentia of the modern from the medieval theory. Developed especially by Hobbes and Locke, it became a universal characteristic of social theory down to the French Revolution and maintained itself far beyond that date.

It persisted, moreover, as a presumption in Bentham's School long after David Hume had destroyed the methodology of natural rights.

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CHAPTER XXII

ENGLAND: PREPARATION FOR CIVIL WAR

BEFORE the outbreak of the civil wars in England in the 1640's the lines between rival political ideas were much less clearly drawn than they had become in France in the last quarter of the sixteenth century. In the latter country the right to resist had become definitely attached to the ancient idea that political power resides in the people, the duty of passive obedience was definitely attached to the theory of monarchical divine right, while Bodin's *Republic* had given a fair approximation to a theory of constitutional unity under the crown. In England, where no serious threat of civil disorder occurred until after the second quarter of the seventeenth century, these ideas remained in the inchoate state in which they existed in the medieval tradition. The Tudor monarchs were virtually absolute, but their power rested on the acquiescence of a substantial middle class which they were too prudent to alienate. Hence there was no faction that had any serious interest in supporting royal absolutism with a theory of divine right, and none that had to seek a theoretical defence for the right to resist. No one had as yet been forced to contemplate the consequences of a break between the powers of the constitution, such as the king and parliament or the king and his courts. The older assumption of comity and harmony between these powers under the fundamental law of the realm could still be made, without considering the ultimate legal supremacy of any of them. The traditional rights and limitations which fixed, vaguely but with sufficient precision, the status of all parts of the constitution had not yet been strained to the breaking point.

MORE'S "UTOPIA"

As the sixteenth century advanced, in England as everywhere else in Europe, all other considerations were overshadowed by political problems arising from the Protestant Reformation. The political ambitions of the various churches obscured and concealed the serious economic dislocation that attended the rise of modern trade and the destruction of the older economy. The older stratum of thought may be seen in such a pre-Reformation work as Sir Thomas More's political

satire, the *Utopia*.[1] Though modelled externally on Plato's *Republic*, the *Utopia* really expressed its author's dislike of an acquisitive society in which it was becoming good morals to "buy abroad very cheap and sell again exceeding dear." The satire follows a pattern which might serve for any period of economic maladjustment: crime is alarmingly common and is met by corresponding savagery in the criminal law, yet severity avails nothing, for crime is the only means of livelihood open to great numbers of persons. "What other thing do you do than make thieves and then punish them?" Men trained for soldiers are thrown, by the cessation of war, upon the community with no possibility of being absorbed into industry. Industry, especially agriculture, cannot even support those already in it, since wool, the most profitable crop, requires the turning of arable land into pasture and the dispossessing of peasant occupiers. Sheep "consume, destroy, and devour whole fields, houses, and cities," and while peasants starve, or rob to live, the rich affect a "strange and proud new fangledness in their apparel and too much prodigal riot and sumptuous fare at their table." Government, instead of attacking this social disease, is engaged in legal chicanery to extort taxes and in pernicious schemes of war and conquest. More's sharpest shafts of irony were reserved for the perfidy of international diplomacy.

This attack upon the economics of business enterprise, however, was really motived by a longing for the past. It went back to the ideal, though hardly the actuality, of a co-operative commonwealth, which the new economy was displacing. More's conception of what was socially right was derived professedly from Plato's analysis of society into a system of co-operating classes, but perhaps more truly from the assumed validity of this conception in most of the social theory of the Middle Ages. According to this view, current at any time after St Thomas, a community consists of classes, each entrusted with some task necessary to the common good, each performing its proper function and receiving its due reward without encroaching upon the equal right of others. In such a scheme individual enterprise has practically no place. Perhaps an English manor may have formed an economic unit, and ideally a moral unit, not too remote from such a conception. The moral purpose of a community, as More idealized it, was to produce good citizens and men of intellectual and moral freedom, to do away with idleness, to supply the physical needs of all without excessive labour, to abolish luxury and waste, to mitigate both poverty and wealth, and to minimize greed and extortion; in short, to reach its

[1] First published in 1516. A less well-known example of the ideal of a co-operative commonwealth is Thomas Starkey's *England*, a dialogue between Cardinal Pole and Thomas Lupset, written in 1536–38, and first published by the Early English Text Society in 1871. See the chapter on "The Very and True Commonweal" in J. W. Allen's *Political Thought in the Sixteenth Century* (1928), p. 134.

consummation in "free liberty of the mind and the garnishing of the same."

If a worthy moral idea can ever be pitiable surely this of More, appearing on the threshold of the religious wars and the expansion of modern trade, might be called so. It expressed, as More's life did, the reasonableness and open-mindedness of humanism, and withal the futility of a moral aspiration that cannot make its account with brute fact. Even the effort to give prominence to social and economic problems with their human consequences failed before the rising tide of theological strife and the problems of political organization which it involved. For this reason the *Utopia* remained comparatively an isolated and unimportant episode in the political philosophy of its time. It illustrated rather the dying utterance of an old ideal than an authentic voice of the age that was coming into being.

HOOKER: THE NATIONAL CHURCH

The conception of a co-operative commonwealth, present in More and in all the English writers of the sixteenth century, formed a matrix from which the sharper issues of the mid-seventeenth century emerged. By the end of the sixteenth century the old conception had become strikingly incoherent; all parties were inclined to rely upon untenable compromises which had to be given up when various claims, really incompatible, were pushed. The main regions of stress were two. There was, in the first place, the old question of the church and secular government, in no way solved by the secession from Rome, but transformed into an internal problem involving national relations with the English church and the other branches of Protestant dissent, Presbyterian, Independent, and sectarian. In all these ecclesiastical and theological positions there were, and continued to be, political implications which could not be avoided. Hence it is necessary to take account of the political differences between the religious parties into which Englishmen were divided. In the second place, there was the question of the centralization of power and its incidence upon the supposedly co-operative relation between the various parts of government. Specifically this concerned the king and his control over his courts, first over the courts of common law and, more seriously in the end, over parliament. This chapter will describe, first, the political positions characteristic of the main religious bodies, and especially the bearing of these positions on the theory of the relation between church and state. Second, it will describe the growing tension between the crown and other elements of the constitution which was gradually breaking down the old belief in the harmony of powers.

For reasons that were quite unavoidable under the circumstances the independence of the English church from Rome could only mean

that the king became its temporal head, but the temporal head of a church was a new and incomprehensible idea. Ecclesiastical government must include the power to decide what doctrines were to be believed by its members, yet no Christian could seriously think that the king of England was able to say what was true doctrine. A lawyer who knew little about theology and cared less might content himself with the practical conclusion that heresy was defined in the king's courts like other offences. A man who earnestly believed that the doctrine of the church was eternal truth might well feel some misgiving at seeing this truth put into the keeping of the bishops, who were appointed by the king to govern the church. The truth is that the temporal headship was plausible just in so far as it was not necessary to understand it. It meant in effect not a theory but a practicable compromise which was unavoidable and on the whole conducive to public order. The religious wars in France presented an alternative that prudent Englishmen willingly took to heart. One essential fact in the situation was that every one still lived in the shadow of a supposedly universal Christianity, believing that the divisions between the churches were temporary and would presently disappear, restoring the normal condition of a common belief. No one touched with Calvin's strong views on the independence of the church could contemplate the temporal headship as a permanence.

The controversy about the royal headship of the church produced one treatise of lasting importance, *The Laws of Ecclesiastical Polity* by Richard Hooker.[1] In purpose it was controversial, being intended to refute Puritan criticism of the established church, but in temper and breadth of learning it was at the opposite pole from the usual controversial tract. Though dealing explicitly with church government, the book was really an examination of the philosophy of law and government at large, since Hooker conceived church government to be only one aspect of all civil society. Taken as representing the thought of its own day, the *Ecclesiastical Polity* was notable because it was the last great statement of what might be called the medieval tradition, before that tradition was snapped by the stresses and strains of civil war. The striking thing about it was the variety of issues which it could conciliate, instead of making them irreconcilable conflicts as they became a generation later. In the long run, however, the importance of the book lay in providing a means by which this medieval tradition could carry over, with some necessary changes, into the modern political philosophy of the era after the civil wars. John Locke was glad to acknowledge his indebtedness to "the judicious Hooker," and, in, fact the conservative character of his summing up of the results

[1] Books I–IV were published in 1594, and Book V in 1597. Books VI–VIII were added in a somewhat mutilated form after Hooker's death.

of the Revolution depended in no small degree upon the continuity of his ideas with those of the earlier thinker.

The main object of Hooker's argument was to show that the Puritans, in refusing obedience to the established church, were implicitly denying the foundations of all political obligation: Englishmen are bound by reason to obey the ecclesiastical law of England, while Puritans are not bound, either by reason or religion, to disobey it. The defence of this thesis took him first into a philosophical examination of all law and the basis of political obligation, and here he followed the lead of Thomas. There are various types of law: the eternal law, or the law of God's own nature, the natural law, or the ordinances which God has laid down for governing things after their various kinds, and the law of reason, which man as a rational being is especially obligated to follow. Reason enables a man to perceive the good, and his will leads him to follow it. Hence the rule of men's lives is the "sentence that reason giveth concerning the goodness of those things which they are to do." And the sign by which such rules of reason may be known is the general assent of mankind. "That which all men have at all times learned, nature herself must needs have taught."[1] The most fundamental rules of reason are therefore universally accepted as soon as they are understood, and rules of less generality may be deduced from them. So far Hooker hardly went beyond the commonplaces of all medieval political thought, since it was his purpose to argue from principles generally accepted. He restated the theory of law from which Grotius started a generation later, and nothing is lacking except the more rationalist form of argument which Grotius added to the inherited theory.

Manifestly the law of reason is binding upon all men absolutely, even if society and government did not exist. Men are led to form societies, according to Hooker, because they have a native sociability and are unable to satisfy their needs in a life of isolation. A society is impossible without government, and government in turn is impossible without human or positive law. To take away the mutual grievances which inevitably arise when men associate together there is no way but "by growing into composition and agreement amongst themselves, by ordaining some kind of government public, and by yielding themselves subject thereunto." Hooker did not enlarge upon the notion of a contract, though the idea was implied in what he said. The rules by which men elect to live together are agreed upon either expressly or tacitly, and the order thus established is law for the commonwealth, "the very soul of a politic body, the parts whereof are by law animated, held together, and set on work in such actions as the common good requireth."[2] The ground of political obligation is therefore the common consent by which men agree to be ordered by some one. As

[1] Book I, sect. 8.

[2] *Ibid.*, sect. 10.

Hooker says, in words that recall Nicholas of Cusa, without this consent there is no reason why one man should take upon him to be lord or judge of another. He expressly held, however, that consent may be given through representatives and that, a commonwealth once existing, its laws are binding upon its members for all time, for "corporations are immortal." Accordingly, though he says that "Laws they are not which public approbation have not made so," and though he holds that to govern without consent is tyranny, he claimed no right of rebellion. There is no way in which a society can withdraw its consent from an authority it has set up.

The noteworthy fact about this system so far is its substantial agreement with Thomas: the human law of the community is derivative, in a series of descending steps, from the eternal law of God and has behind it all the authority of its origin. The positive law gives effect to what nature requires in general, and the community, as a natural unit, has an inherent capacity to bind its members under the organic law of its own being. When Hooker begins to deal with Puritan attacks on the English church, however, the resemblance to Thomas stops. In brief he argued that the ecclesiastical law of England is not contrary to reason or Christian faith and hence is binding, like the rest of English law, upon all Englishmen. The fostering of religion is a first charge on every body politic, and any society which has a true religion is at once a church and a state. The English church and the English nation are exactly identical in membership, for every Englishman is a Christian and every Christian in England is an Englishman. Ecclesiastical law, therefore, has the same kind of authority as any other law, and disobedience to it undermines all social order. For Hooker the offence of Puritanism is that it makes church and state two distinct societies, as he thinks Roman Catholicism does. In practice, as he pretty clearly implies, this is covertly a way of making the church supreme over the state. Consequently both papalism and presbyterianism are causes of confusion and disorder in the state and ultimately in the church.

This argument is a truly extraordinary combination of medievalism and nationalism. It assumes, first, that the English nation is a commonwealth or a community, a self-sufficing corporate entity whose laws bind its members not only in their individual capacity but as organs of the community. Hence the law prescribes what both princes and prelates may do, and their power belongs not to their personal will but to their offices. On the constitutional side Hooker's theory is still that of the co-operative commonwealth. With respect to religion it assumes, quite in the medieval fashion, that any complete society must be at once church and state, including an ecclesiastical as well as a secular constitution. It takes for granted that Christianity is true—presumably not truer for Englishmen than for others—and yet,

it assumes also, what would certainly have amazed Thomas, that this universal truth needs no universal institution of its own but can be put into the keeping of a national government and a national church. Finally, and this forms its fatal weakness from a Puritan point of view, it assumes that the indubitable truth of Christianity leaves the form of church government—the choice between episcopalianism and presbyterianism—a matter of indifference so far as faith is concerned. Obviously no Calvinist could admit this, any more than a Catholic could admit that the spiritual authority of the pope had nothing to do with faith.

If Hooker's theory be taken as representing the state of political thought in England at the end of the sixteenth century, it is as notable for what it omits as for what it includes. His version of the theory of consent was not at all a defence of the right to resist, but equally he made nothing of passive obedience. The ethical belief that rebellion is wrong was stated strongly enough by other English writers in the sixteenth century, and by Puritans as much as by others, but the grounds for the belief were utilitarian and it implied no theory of royal absolutism.[1] In particular, though Hooker wrote as an Anglican, his theory is at the opposite pole from any doctrine of monarchical divine right. The popularity of divine right among Anglicans was strictly a phenomenon of the civil wars and after. It was a clerical theory, most violently held in the universities,[2] and after the execution of Charles I, a peg on which to hang sentimentality about the 'royal martyr.' It never affected any constitutional issue and probably played a negligible part in the realistic thinking even of royalists. Certainly it had no spokesman in parliament during the reigns of James I and Charles I. Later it received lip-service, but it probably never played a significant part in English political philosophy.

CATHOLIC AND PRESBYTERIAN OPPOSITION

On the other hand, Hooker's defence of the royal headship of the national church was intolerable to two classes of Englishmen, the Presbyterians and the Catholics. Both agreed that royal supremacy in the church was an invasion of spiritual independence. Behind the newer doctrinal disputes and differences about church government there still lay the ancient questions of clerical dictation and spiritual freedom. Anglicans stressed opposition to the first; Presbyterians and Catholics stood upon the second as an essential article of Christianity.

[1] See J. W. Allen, *op. cit.*, Part II, ch. ii.

[2] The strongest statements of it were (1) Constitutions and Canons Ecclesiastical: Concerning Royal Power, adopted by Convocation in 1640; *Synodalia*, ed. by E. Cardwell, Vol. I, p. 389; also in D. Wilkins, *Concilia*, Vol. IV, p. 545. (2) Judgment and Decree of the University of Oxford, adopted in 1683, in *Somers' Tracts* (1812), Vol. VIII, p. 420; also in Wilkins, *ibid.*, p. 610.

The fundamental position of Catholics is illustrated by a passage between Sir Thomas More and the King's Solicitor at More's trial. The Solicitor tried to trap More into a denial of the binding force of an act of parliament by asking him if even the election of a pope must not be settled for Englishmen if parliament chose to pass on it. More replied:

> To your first case, the Parliament may well meddle with the state of temporal princes; but to make answer to your second case, I will put you this case. Suppose the Parliament would make a law that God should not be God, would then you, Master Rich, say God were not God?[1]

More's thought was one with which any conscientious Catholic must have agreed. If king and parliament govern religious belief, then there is no universal organization of all Christians. To a Catholic some acknowledgement of papal authority seemed essential to preserve the unity and freedom of the church. He need not believe with the Jesuits that the pope had even an indirect power to depose the king, but he must believe that royal supremacy in the church was inconsistent with any except a mystical meaning for Christian unity.

The earnestness with which Calvinists detested the pope made them no readier to admit a secular head to the church, for they agreed with Catholics in regarding this as an invasion of the church's spiritual independence. The bent of Calvinism wherever it had a free hand was not towards political control of the church but towards clerical control of politics. The moral and doctrinal discipline over the whole community, which was an essential part of the plan, required that the church should have the support of government, but it implied not less that the church should be free to determine for itself what constituted sound doctrine and godly living. The separation of church and state was therefore an essential element of Calvinism, but not in the modern sense that leaves the state a wholly secular institution. The separation that Calvinism contemplated was one that left the church autonomous but also made its decisions compulsory. Hence the Presbyterians, like the Anglicans, held to a substantial part of the medieval Christian tradition but were always in process of being forced to violate both the letter and the spirit of that tradition. The Anglicans brought over from the Middle Ages the conception of a church-state, which resulted in the astonishing innovation of a church conceived on national lines. The Presbyterians brought over the conception of spiritual independence in the church, which resulted in the no less astonishing innovation of a state that was no church at all. In the sixteenth century the separation of church and state was regarded as a novelty fostered by Puritans and Jesuits.

In one important respect, however, the English Presbyterians

[1] Quoted by Allen, *op. cit.* pp. 200 f.

differed radically from the Calvinists in France and Scotland: they objected to royal supremacy in the church but they never justified rebellion. In this respect they remained closer to Calvin than to Knox or Beza or the author of the *Vindiciae contra tyrannos*. The reason for this was that in the sixteenth century there was never a time in England when they had any chance of gaining a presbyterian form of church government by means of rebellion. Even in the seventeenth century they remained on the whole half-hearted rebels; hence the gibe that the Presbyterians led Charles to the block but the Independents cut off his head. As a group the English Presbyterians hardly had any distinctive political theories. Their views were mainly aristocratic and conservative, certainly monarchical, and directed less towards political change than towards ecclesiastical reform. During the brief ascendancy of the Presbyterian party in the early years of the civil wars their writers defended resistance, but on grounds that were open to any parliamentarian. What they mainly desired was presbyterianism in the English church, and this they hoped for, as a rule, by means of the king rather than against him. They remained therefore a party within the English church, until they were excluded by the Act of Uniformity in 1662, rather than a party with any definite political objective.

THE INDEPENDENTS

Of all the English Puritans the Independents or Congregationalists had the greatest importance for politics. Though Calvinist in their theology, they had taken a step in religious reformation which placed them in a different category from the Presbyterians. They had cut the Gordian knot by deciding that reformation in the church was possible, as Robert Browne had said, "without tarrying for any."[1] They believed that a body of Christians could form a congregation which would be a true church, could ordain its clergy, and set up a reformed mode of worship, without authorization either by civil magistrates or ecclesiastical powers. In principle, therefore, the church became a voluntary association of like-minded believers, and it renounced the support of the civil authorities either in reforming itself or extending its practices to persons of a different mind. The church became substantially identical with the congregations, the latter being united only loosely in a sort of federation for consultative purposes. Thus the Independents stepped outside any possible form of national church and were obliged to claim a greater or a less degree of religious toleration for themselves and to defend it for others. Church and state became quite definitely two societies, not only separate but in principle independent, with the power of coercion concentrated in the state but limited to purposes within the province of secular government.

[1] *A Treatise of Reformation without Tarying for Anie* (1582).

> To compel religion, to plant churches by power, and to force a submission to ecclesiastical government by laws and penalties belongeth not to them [magistrates] . . . neither yet to the church.[1]

It is true that so-called Independents accepted this momentous principle and its implications only in varying degrees. In the first place, none desired and few countenanced a real breaking-up of religious unity. Like every plan of religious reform, Independency began under the presumption that honest inquiry would reveal a demonstrable body of Christian beliefs and practices and would therefore lead to uniformity. In the second place, few Independents desired the abolition of all synodal influence over the congregations, though they stood for less control than the presbyterian system made possible. The Independents in Massachusetts hotly rejected the epithet 'separatist' and practised anything rather than toleration. Within Independent congregations, moreover, the principle of voluntary adhesion could be accepted in varying degrees; they were by no means uniformly democratic in allowing to every member a voice in settling either doctrinal or disciplinary questions. On the other hand, there was a general connection between the principle of free assent in religion and consent to government, and congregationalism, far more than presbyterianism, was in a position to countenance resistance, not only to the king but to parliament itself, in defence of fundamental liberties.

Finally, though Independents were necessarily committed to some degree of toleration, the degrees were innumerable, and only occasional Independents took the advanced ground that any religious belief should be permitted which did not adversely affect civil order. Like most religious minorities, they were more zealous in claiming toleration for themselves than in vindicating it for others. This was not so hypocritical as it seems, since with most of them toleration was incidental to the primary purpose of religious reform. They never meant to deny that government ought to repress 'idolatry.' The most advanced position was taken by Roger Williams in Rhode Island, where for the first time a government was set up on a general principle of toleration. In 1644 he defended this principle in his *Bloudy Tenent of Persecution*, which was regarded at the time as one of the most scandalous books in a scandalous literature. In the same year William Walwyn, a merchant of London who himself disclaimed membership in any of the left-wing sects, published his *Compassionate Samaritane*, defending effectively the toleration of Separatists and Anabaptists.- Both Williams and Walwyn were exceptional even among writers known as Independents.[2]

[1] *Ibid.*, ed. by T. G. Crippen, p. 27.

[2] Williams's tract is republished in Publications of the Narragansett Club, first series, Vol. III (1867), and also by the Hansard Knollys Society (1848). Walwyn's tract is republished in *Tracts on Liberty in the Puritan Revolution, 1638–1647* (1934), ed. by William Haller, Vol. III, p. 59.

Though they had their origin in the sixteenth century, the Independents were not very numerous in England until the 1640's. Then they formed the backbone of resistance to the king, in so far as resistance depended upon religion. Independency came to its greatest power in Cromwell's New Model Army and in the political experiments which followed the second civil war and the execution of the king. By this time, however, the economic and political disadvantages suffered during the war by the less prosperous part of the middle class had produced in the Levellers a genuine political party. The Levellers were no doubt in the main Independents though most Independents were not Levellers. The political philosophy of the Levellers was in some measure a continuation of left-wing Independency, but it deserves and must receive separate treatment.

SECTARIES AND ERASTIANS

Still further towards the left wing of the Protestant Reformation lay the Baptist and Quaker sects, which had effectively disposed of the question of church government by reducing the organization of the church and its relation to secular power practically to a nullity. Since for them the essence of religion lay in an inward illumination or a spiritual experience, the government of the church was a matter of little moment, and they had abandoned even the notion of a national religious establishment. Between the various bodies that were known as Baptist or Quaker there need be no very substantial agreement, and most of the writers who vilified them spent little care in finding out what they believed. In any case there is no reason to suppose that the sectaries as such had any distinctive political opinions or to doubt that their members were for the most part simple, law-abiding folk. The detestation with which they were regarded was partly due to the over-wrought nerves of heresy-hunters like Thomas Edwards,[1] but also to the fact that fantastic notions which really had a sporadic existence were imputed wholesale to any sect that was thought to be fanatical. Thus there were persons, commonly called Baptists, who believed that men of true religious illumination had no need of law and could not rightly be held to obedience by magistrates. This belief was usually associated with the idea that the end of the world was at hand and that in the new dispensation the saints would inherit the earth. It might lead to political quietism or to nihilism, and in the latter case it might end in attacks on both property and law. In so far as communism had any part in English political philosophy at this time, it was in the so-called Diggers, whose leader, Gerard Winstanley, will be discussed later.

Such an enumeration of religious sects as has just been given should

[1] His *Gangraena* (1646) was a rather hysterical review of the enormities of the sects.

mention a strain of English opinion which was bred of opposition to all of them but more especially to the pretensions of presbyterianism. This is usually called (not very correctly) Erastianism and John Selden may be taken as representing it. Selden's opinions both of politics and religion grew from a kind of secularism not very common in the seventeenth century and from a shrewd worldly-wisdom that pricked the pretences of both politicians and clergy. Constitutional arrangements he regarded as merely agreements for the sake of order and security. The king's power is just what the law gives him, and effectively the law is what the courts can enforce. Similarly the church's establishments and the privileges of the clergy are what civil authority makes them. Pretensions to divine right anywhere he regarded as juggling tricks to extract money and power from the laity, a judgment which he passed impartially on all denominations but more particularly on the Presbyterians. "Presbyters have the greatest power of any clergy in the world, and gull the laity most." The office of a priest is merely a profession like the practice of law. Selden's utilitarianism, secularism, and rationalism were far from typical but they appeared again in his friend Thomas Hobbes, and in a sense they had the last word at the Revolution in the thought of Halifax.

CONSTITUTIONAL THEORIES: SMITH AND BACON

The urgency of ecclesiastical questions and the power of the king as temporal head of the church tended to throw the constitution out of its medieval balance but a variety of other causes also, connected with the growing independence of the upper middle class, tended to produce tensions between the king and the courts by which his power was limited. The civil wars occurred when these tensions reached the breaking point. The result, generally speaking, was that the older constitutional conception of a harmony of powers had to be abandoned for the more modern conception of delegation from a sovereign source of power. Prior to the civil wars there was no clear-cut theory that supremacy resided in any part of the constitution. The powers which belonged by immemorial custom to the king, to parliament, and to the other courts were thought to be inherent in them. Within the limits of its proper liberty each acted on its own initiative. If supremacy resided anywhere, it was in the realm itself and not in any of its organs. Despite the great powers enjoyed by the Tudor kings, there was no theory of royal supremacy as clear even as that of Bodin in France. The civil wars forced both royalists and parliamentarians into claims of supremacy for the king or for parliament which went far beyond what either party originally intended. Though both parties claimed the warrant of English history, both ended by breaking radically with the tradition of the sixteenth century, parliamentarians not less than

royalists. The difference was that parliament made good its novel claims and the king failed.

Probably the state of English constitutional theory in the sixteenth century is best indicated by Sir Thomas Smith's *De republica Anglorum.*[1] Historians as competent as Frederic Maitland and Sir Frederick Pollock have regarded this book as stating a theory of parliamentary supremacy, but this is almost certainly a misinterpretation.[2] Smith in fact asserted at once that the king was the 'authority' for everything that is done in English government and that parliament was "the most high and absolute power of the realm." He clearly believed that there were certain things that could be done by the king without parliament and some that must be done in parliament. In both cases it was the custom of the country which determined. The most striking feature of Smith's book was that it regarded the constitution as consisting mainly of the courts and represented parliament itself as the highest court in the kingdom. It is in this sense that his statement about the absolute power of parliament should probably be understood: no other court will reverse a decision by parliament. He was quite aware that parliament differed from other courts in that it did not usually take cognizance of issues between private parties, but he still thought of it as in the main a judicial body. At all events he had no definite idea of it as a legislature, for he drew no line between making and interpreting law, and he never contemplated a conflict between parliament and the crown. Supremacy resides in the realm, and its law, which assigns to the king and his various courts their proper powers, and the harmonious co-operation of all these powers was everywhere assumed. Consequently, to Smith's mind there was no incompatibility in the view that the king was the 'head' of the whole system while parliament was the chief court.

This conception of the constitution and of parliament persisted long after there was active opposition to the pretensions of James I to something like absolute power. James's first controversy was not with parliament but with the courts of common law and concerned not legislation but the royal prerogative. In this controversy, in which the chief actors, besides James, were Francis Bacon and Sir Edward Coke, the question was not supremacy, either of the crown or of any other part of the government, but the proper balance between the king and his courts. Circumstances made Bacon the spokesman for a strong royal prerogative, in which he sincerely believed, though he certainly never believed in royal absolutism; they made Coke the chief agent in limiting prerogative, though the supremacy of parliament

[1] Published in 1583 but first written in 1565. Ed. by L. Alston (Cambridge, 1906).

[2] Maitland, *Constitutional History* (1911), pp. 255, 298; Pollock, *Science of Politics* (1911), pp. 57 f. Cf. Alston's Introduction; also C. H. McIlwain *High Court of Parliament* (1910), pp. 124 ff.

would have been equally repugnant to him. Opposed as they were, both men still stood on the conception of harmony or balance, regulated by the customary law of the land, which provided a place for the king and every other organ of government without the supremacy of any.

Bacon's whole conception of policy tended to emphasize royal power, but he thought always in terms of the Tudor monarchy, in which the king was the trusted leader of the nation and of parliament. When James ascended the throne Bacon tried anxiously to commend himself to the new monarch by advising a policy of vigorous leadership. The union with Scotland, the colonization of Ireland, and an aggressive policy on the Continent seemed to him well calculated to make England the dominant power in north-western Europe and the leader of the Protestant interest. All his life he seems to have believed that if James could be persuaded to take this line his difficulties with his English subjects would vanish in a wave of patriotism. From his *Essays* it is evident that Bacon's political ideal was a strong and warlike people, not overburdened with taxes, with no great concentration of wealth, and with a nobility not too powerful—good Tudor ideals all—led by a king having great resources in crown-lands, a strong prerogative, and a vigorous policy of national expansion. In his mind this did not imply absolutism. James's determination to stand on his prerogative was flatly against Bacon's ideas of good policy, and his attempt to go ern without parliament was contrary to Bacon's advice. From Bacon's point of view nothing could have been more injudicious than to force the alternative of king's right or parliament's right.

In the controversy between James and the judges of the courts of common law Bacon was obliged by his official position to take an *ex parte* attitude, but his belief in strong royal prerogative was quite sincere. The king regarded himself as the fountain head of justice and the judges as his ministers, and hence he claimed the right to instruct them in cases touching his prerogative, to set aside decisions, or to draw cases out of the courts and into special commissions. In his famous essay "Of Judicature" Bacon emphasized, as James did, the propriety of the courts' keeping clear of questions of state and royal prerogative; judges should be lions but "lions under the throne." The essay seems to be full of oblique references to Coke, whom Bacon doubtless regarded as the type of a bad judge.

SIR EDWARD COKE

The head and front of the opposition to James's effort to stretch the royal prerogative was the chief justice, Sir Edward Coke. The root of all Coke's political ideas lay in his reverence for the common law, which he conceived as at once the fundamental law of the realm and the embodiment of reason, though of reason as grasped only by the

lawyers' guild. The common law was a 'mystery' and Coke esteemed himself as its chief technician. He reported one of his conferences with James as follows:

> Then the king said, that he thought the law was founded upon reason, and that he and others had reason, as well as the judges: to which it was answered by me, that true it was, that God had endowed his Majesty with excellent science, and great endowments of nature; but his Majesty was not learned in the laws of his realm of England, and causes which concern the life, or inheritance, or goods, or fortunes of his subjects are not to be decided by natural reason but by the artificial reason and judgment of law, which law is an act which requires long study and experience, before that a man can attain to the cognizance of it . . . with which the King was greatly offended, and said, that then he should be under the law, which was treason to affirm, as he said: to which I said, that Bracton saith, *Quod rex non debet esse sub homine, sed sub Deo et lege.*[1]

In Coke's view it was the common law which assigned to the king his powers, to each of the courts of the realm its proper jurisdiction, and indeed to every Englishman the rights and privileges of his station. The common law, therefore, included all that would now be counted as the constitution, both the fundamental structure of government and the fundamental rights of subjects. Certainly he contemplated these fundamentals as substantially unchangeable.

It was this conception of the law which enabled Coke to render his most famous decision in limitation of the prerogative, that "the king cannot create any offense by his prohibition or proclamation, which was not an offense before."[2] It was the ground also of the writs of prohibition by which the courts of common law sought to restrain other courts and of Coke's sturdy opposition to James's attempts to withdraw cases from the courts and to decide them either by himself or by special commissions. Finally, it provided the reasons for Coke's belief that parliament itself is unable to change the underlying principles of justice embodied in the common law. He was not very definite about the nature of these limitations but he was explicit in asserting their existence. Thus in Bonham's case he said,

> It appears in our books, that in many cases, the common law will control acts of Parliament, and sometimes adjudge them to be utterly void: for when an act of Parliament is against common right and reason, or repugnant, or impossible to be performed, the common law will controul it, and adjudge such act to be void.[3]

This opinion, which though extreme was certainly not peculiar to Coke, shows how little hold the idea of parliamentary sovereignty had on English lawyers in the earlier seventeenth century and also how deeply the American plan of judicial review was rooted in the English legal tradition.

Coke was peculiarly a practitioner of the common law, but aside

[1] Coke's *Reports*, Pt. XII, 65. [2] *Ibid.*, Pt. XII, 75. [3] *Ibid.*, Pt. VIII, 118*a*.

from this fact, his fundamental beliefs were extraordinarily like those of Sir Thomas Smith and Hooker. Like Smith, he thought of English government as mainly comprised in the courts, of which parliament is the chief; neither for Coke nor for Smith was parliament primarily a legislative body nor was the making of law primarily the purpose for which the government existed. None of the three would have felt that there was any intelligible sense in which law could be said to be made, though all would have agreed that specific provisions of law were changed from time to time. For Coke law was an indigenous growth within the realm; for a philosopher like Hooker it was a natural part of the cosmos, but in practice the difference was not great. The law assigned to every man, public or private, his rights and duties, his liberties and his obligations; it fixed the standards of justice by which he was constrained to act or forbear, and no less so if he were the king than if he were a subject. The king's rights were not the same as the subject's, but both had their rights within the law. Consequently, though the law supported innumerable powers, it knew nothing of a sovereign power, for king and parliament and the several courts of common law had each its powers indefeasibly as the law provided. There was none of which all the others were delegates. Consequently Coke's defiance of James grew out of the fact that he was a thoroughgoing conservative, even a reactionary. If circumstances had made him an opponent of parliament, he could have played this rôle with equal consistency. For he represented a conception of law, and of the relation of law to government, more ancient than the absolutist philosophy of the king or the absolutist philosophy to which the parliamentarians were driven.

It was only slowly and under the stress of circumstances that anyone abandoned the familiar idea of harmony and adopted the novel idea of supremacy. The earlier opposition to Charles I's attempts at personal government grew from a dislike of royal absolutism—exhibited in the imposition of taxes without parliamentary approval and in the imprisonment of subjects without legal process—but it implied no counter theory of parliamentary sovereignty. Even in the early months of 1641 Parliament was mainly content to limit the use of the prerogative, to abolish extraordinary courts, and to ensure its participation in levying taxes—in short, to lop off what were felt to be excrescences with which Tudor times had marred the ancient perfection of the constitution. As a practical measure Parliament had to claim the right not to be dissolved without its own consent, and by the end of 1641 it had been forced to claim the power to appoint and dismiss ministers, and to control all the military, civil, and religious affairs of the kingdom. These claims were revolutionary, for they were more at variance with constitutional custom as known to Smith or Coke than the king's broad interpretation of his prerogative. In

England as in France the stress of civil war produced a government centralized in theory as it had tended to be in fact, but in England the legal headship of the nation passed to a representative assembly.

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might even by hypothesis dispense with God, but he had never contemplated a real mechanization of nature. The law of nature, in Grotius and in nearly all its applications throughout the seventeenth and eighteenth centuries, remained a teleological and not a mechanical principle. Spinoza, following Hobbes, made the only determined effort to bring both ethics and religion into accord with mathematical natural science, but his success was far from complete and in any event his influence was negligible until the beginning of the nineteenth century. The meaning of natural law remained twofold. In physics and astronomy it meant a principle of mechanics like Newton's laws of motion, while in ethics and jurisprudence it meant a rule of right intuitively perceived, a transcendent value or norm by which the worth of positive law or actual moral practice could be judged. But a philosophy like Hobbes's made right or justice in any such cosmic sense absolutely unintelligible. Both nature and human nature were for him nothing but systems of causes and effects.

There remained a somewhat superficial resemblance between Hobbes's procedure and that of the theory of natural law: both professed to derive their basic principles from human nature and to deduce from this certain rules which law and government must follow. But the meaning of the dependence on human nature was quite different in the two cases. In the typical theories of natural law the dependence was, broadly speaking, Aristotelian: that is to say, natural law states the basic moral conditions of a humane and civilized life. Hence these are ends to be approximated, which exert an ethically regulatory control over positive law and human conduct. For Hobbes, on the other hand, that which controls human life is not an end but a cause, the psychological mechanism of the human animal. The societies which arise from the living together of such animals are resultants of their mutual actions and reactions upon each other. And the conditions of a stable union between them are not justice and fair dealing, or any moral ideals, but merely the causes that will evoke a generally co-operative kind of conduct. Logically this was all that Hobbes was entitled to mean by laws of nature. It cannot be said that he always took this position. Probably it is not humanly possible to do so. But his system was at any rate the first wholehearted attempt to treat political philosophy as part of a mechanistic body of scientific knowledge.

It would undoubtedly have been easier for Hobbes if he could have abandoned the law of nature altogether, as his more empirical successors, Hume and Bentham, did. He might then have started from human nature simply as a fact, claiming the warrant of observation for whatever qualities, or even ideal purposes, he might have seen fit to attribute to it. But this course would have been contrary to all that was supposed in the seventeenth century to be good scientific method.

A deductive system must have its postulates, and there is no evidence for a postulate unless it be self-evidence. Consequently Hobbes not only retained the laws of nature but gave them an important place in his political theory. All his efforts were bent towards interpreting them in accordance with the principles of his own psychology while retaining, it must be admitted, the occasional advantage of talking as if he meant by them something rather like what others meant. In fact they were quite different. The laws of nature really meant for Hobbes a set of rules according to which an ideally reasonable being would pursue his own advantage, if he were perfectly conscious of all the circumstances in which he was acting and was quite unswayed by momentary impulse and prejudice. Since he assumes that in the large men really do act in this way, the laws of nature state hypothetical conditions upon which the fundamental traits of human beings allow a stable government to be founded. They do not state values but they determine causally and rationally what can be given value in legal and moral systems.

THE INSTINCT OF SELF-PRESERVATION

Hobbes's first problem, therefore, was to state the law of human behaviour and to formulate the conditions upon which a stable society is possible. In accordance with his materialistic principles reality consists always in the motion of bodies, which is transmitted through the sense-organs to the central nervous system, where it 'appears' as sensation. He further assumed, however, that such transmitted motion always aids or retards the 'vital motion,' the organ for which, as he supposed, was the heart rather than the brain. According as the vital motion is heightened or repressed, two primitive types of feeling appear, desire and aversion, the first being an 'endeavour' towards that which is favourable to the vital processes and the second being a retraction from that which has the opposite effect. From these primitive reactions of advance or retreat Hobbes proceeded to derive all the more complex or remote emotions or motives. These depend upon the relation in which the stimulating object stands to the reaction which it produces. For obvious reasons the emotions are always paired, according as they are forms of desire or aversion. Thus the object which is attractive is in general loved, while that which repels is hated; to attain the one gives joy and to suffer the other gives grief; the prospect of the one gives hope and of the other despair. Other appropriate combinations give fear or courage, anger or benevolence, and so on. By this simple psychological device Hobbes believed that he could derive all the emotions which men experience. What are called 'mental' pleasures and pains are more involved but in principle they are not different. The will calls for no special treatment, since every

emotion is a form of reaction to stimulation, or an active response to external objects and events; the will is simply the 'last appetite.' The novel element in Hobbes's psychology was not the rather cynical assumption of human selfishness which it implied, for in this respect he did not differ from Machiavelli. It was rather the psychological theory by which he tried to make egoism a scientifically grounded account of behaviour.

The details of this theory of motivation need not be stressed but it is important to note the principles of the explanation. First, the mode of derivation was deductive rather than empirical. Hobbes was not cataloguing feelings and motives which he found by observing human nature, but showing rather what reactions can occur in various complex situations on the assumption that all human motive arises from the primitive attraction or retraction which every stimulus is supposed to produce. Second, his theory differed in important respects from the pleasure-pain theory of motivation developed later by the English psychologists of the eighteenth century. It is true that all the emotions derived from desire are in general pleasant while those derived from aversion are unpleasant, but it was not Hobbes's theory that pleasure *per se* is desired or pain avoided. The datum is not pleasure or pain but stimulus and response. The organism always responds in some fashion, and for this reason no special explanation of active behaviour is required. It follows, third, that Hobbes's theory of value was widely different from that of the later utilitarians, who supposed that value must be measured in units of pleasure. For him the fundamental psychological fact in value is that every stimulation affects vitality either favourably or adversely. If the effect is favourable the organism responds appropriately to secure and continue the favourable influence; if the effect is adverse the organism withdraws or takes other appropriate action to avoid the injurious effect. The rule behind all behaviour is that the living body is set instinctively to preserve or to heighten its vitality. In a word, the physiological principle behind all behaviour is self-preservation, and self-preservation means just the continuance of individual biological existence. Good is what conduces to this end and evil what has the opposite effect.

It was of course obvious to Hobbes that self-preservation is no such simple, momentary affair as has so far been assumed. Life affords no breathing space or moment of repose in which the end can be once for all achieved, but is a restless pursuit of the means of continued existence. Moreover, the means of security being precarious, no moderation of desire can place a limit to the struggle for existence. The desire for security, the really fundamental need of human nature, is for all practical purposes inseparable from the desire for power, the present means of obtaining apparent future goods, because every degree of security requires to be still further secured.

> I put for a general inclination of all mankind, a perpetual and restless desire of power after power, that ceaseth only in death. And the cause of this, is not always that a man hopes for a more intensive delight, than he has already attained to; or that he cannot be content with a more moderate power: but because he cannot assure the power and means to live well, which he hath present, without the acquisition of more.[1]

The apparently modest need for security is therefore equivalent to an endless need for power of every sort, whether riches, or position, or reputation, or honour—all that may forfend the inevitable destruction which must in the end overtake all men. The means may be tangible—what Hobbes calls "gain"—or intangible—what he calls "glory"—but the value is the same.

From this account of human motives Hobbes's description of the state of man outside society follows as a matter of course. Each human being is actuated only by considerations that touch his own security or power, and other human beings are of consequence to him only as they affect this. Since individuals are roughly equal in strength and cunning, none can be secure, and their condition, so long as there is no civil power to regulate their behaviour, is a "war of every man against every man." Such a condition is inconsistent with any kind of civilization: there is no industry, navigation, cultivation of the soil, building, art, or letters, and the life of man is "solitary, poor, nasty, brutish, and short." Equally there is neither right nor wrong, justice nor injustice, since the rule of life is "only that to be every man's that he can get; and for so long as he can keep it." Apparently Hobbes believed that life among savages really approximated this condition, but the historical accuracy of the description was of no importance to him. His purpose was not history but analysis.

RATIONAL SELF-PRESERVATION

So far, however, Hobbes has presented only half of his analysis. The momentary heightening of vitality which is the spring of human desire and the lengthening of life on the whole are quite different matters. There are two principles in human nature, he says—desire and reason. The first hurries men on to take for themselves what other men want and so embroils them with each other, while reason teaches them to "fly a contranatural dissolution." What reason adds is not a new motive but a regulative power, or foresight, by which the pursuit of security becomes more effective without ceasing to follow the general rule of self-preservation. There is a hasty acquisitiveness which begets antagonism and a more calculating selfishness which brings a man into society. Hobbes's psychology was not entirely clear about the relation between reason and instinct, or the way in which the former influences

[1] *Leviathan*, ch. xi.

the latter. This is shown by his habitual twofold use of the word natural. Sometimes the natural is that which a man spontaneously does to gain security and means sheer acquisitiveness and aggression; sometimes it is that which perfect reason would prompt him to do to make himself as secure as the circumstances permit.

It is because these two meanings are so far apart that Hobbes is able to contrast as he does the pre-social and the social states. Before the institution of society the natural man is represented as almost non-rational; in instituting and conducting the state he shows preternatural powers of calculation. In order to be social he must be the perfect egoist, and egoists of this sort are rare. The result is a paradox. If men were as savage and anti-social as they are at first represented, they would never be able to set up a government. If they were reasonable enough to set up a government, they would never have been without it. The paradox is due to the fact that what figures as the origin of society is a combining of the two parts of an analytic psychology. By a psychological convention Hobbes treats motivation as if it were wholly non-rational, while at the same time he depends upon reason for that regulation of motives which alone makes society possible. The distinction is of course fictitious. Human nature is neither so reasonable nor so unreasonable as he assumed it to be.

The raw material of human nature from which a society must be constructed consists, then, of two contrasted elements: primitive desire and aversion, from which arise all impulses and emotions, and reason, by which action can be diverted intelligently towards the end of self-preservation. Upon this regulative power of reason depends the transition from the savage and solitary to the civilized and social condition. The transition is made by the laws of nature, the "conditions of society or of human peace." These laws state what an ideally reasonable being would do if he considered impartially his relations with other men in all their bearings upon his own security.

> Therefore the law of nature . . . is the dictate of right reason, conversant about those things which are either to be done or omitted for the constant preservation of life and members, as much as in us lies.[1]
>
> A law of nature is a precept, or general rule, found out by reason, by which a man is forbidden to do, that, which is destructive of his life, or taketh away the means of preserving the same; and to omit, that, by which he thinketh it may be best preserved.[2]

The spring to action, therefore, is still self-preservation but enlightened by foresight of all the consequences, and this foresight provides the condition by which men can unite and co-operate. The laws of nature are the postulates by which Hobbes's rational construction of society is to take place. They are at once the principles of perfect prudence

[1] *De cive*, ch. ii, 1; *English works* (ed. by Molesworth), Vol. II, p. 16.
[2] *Leviathan*, ch. xiv.

and of social morality, and therefore they make possible the step from the psychological motives of individual action to the precepts and values of civilized law and morality.

The listings of the laws of nature in Hobbes's three accounts of them show that he never made any serious effort to reduce his principles to the minimum required for his purpose. In spite of his undoubted logical power, he never mastered the niceties of exact analysis. The three lists (one in each of the works mentioned above) are similar in substance but not identical in details, and all of them contain rules of no great importance, which might have been treated merely as special cases of more general rules. There is no need to examine them exhaustively or to compare the different lists in detail.

In substance all Hobbes's laws amount to this: peace and co-operation have a greater utility for self-preservation than violence and general competition, and peace requires mutual confidence. By the law of a man's nature he must endeavour to gain his own security. If he must make this endeavour by his unaided efforts, he may be said to have a 'right' to take or do whatever he supposes to be conducive to the end. This, as Hobbes recognizes, is a wholly figurative use of the word right; what it really means is an entire absence of right in any legal or moral sense. But an intelligent consideration of means and ends shows "That every man ought to endeavour peace, as far as he has hope of attaining it." The 'ought' means merely that any other course is, in the long run and when practised by all men, destructive of the security desired. Hence it follows that a man should be "willing, when others are so too, as far forth, as for peace, and defence of himself he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himself." For practical purposes the whole weight of this law is borne by the clause, "when others are so too," since it would be ruinous to grant liberty to others if they would not grant the same to you. Thus the prime condition of society is mutual trust and the keeping of covenants, for without it there can be no centainty of performance, but there must be a reasonable presumption that other persons will meet you on the same ground.

This argument has the perversity already noted in the psychology which underlies it. Hobbes first isolates, rather arbitrarily, those competitive and ruthless qualities of human nature which are inconsistent with mutual confidence. He then shows—what is of course obvious—that society is impossible on these terms. The setting up of the laws of nature is a way of redressing the balance. The two factors in combination give as a resultant a human nature capable of forming a society. Behind the psychological construction, however, lies an assumption about the nature of a society of the greatest importance. Since all human behaviour is motivated by individual self-interest,

society must be regarded merely as a means to this end. Hobbes was at once the complete utilitarian and the complete individualist. The power of the state and the authority of the law are justified only because they contribute to the security of individual human beings, and there is no rational ground of obedience and respect for authority except the anticipation that these will yield a larger individual advantage than their opposites. Social well-being as such disappears entirely and is replaced by a sum of separate self-interests. Society is merely an 'artificial' body, a collective term for the fact that human beings find it individually advantageous to exchange goods and services.

It is this clear-cut individualism which makes Hobbes's philosophy the most revolutionary theory of the age. Beside this his defence of monarchy was superficial. Well might Clarendon wish that Hobbes had never been born to defend his royal pupil with this sort of argument. For it is a perfect solvent of all the loyalty and reverence and sentiment upon which the monarchy had rested. With Hobbes the power of tradition is for the first time fully broken by a clear-headed and cold-hearted rationalism. The state is a leviathan, but no man loves or reveres a leviathan. It is reduced to a utility, good for what it does, but merely the servant of private security. In this argument Hobbes summed up a view of human nature which resulted from two centuries of decadence in customary economic and social institutions. Moreover, he caught the spirit which was to animate social thinking for at least two centuries more, the spirit of *laissez-faire*.

SOVEREIGNTY AND THE FICTITIOUS CORPORATION

Since society depends on mutual trust, the next step is evidently to explain how this is reasonably possible, and this brings Hobbes to his theory of sovereignty. Because of the unsocial inclination of men, it is hopeless to expect them to agree spontaneously to respect each other's rights, and unless all do so, it is unreasonable for any to forgo self-help. The performance of covenants may be reasonably expected only if there is an effective government which will punish non-performance.

> Covenants, without the sword, are but words, and of no strength to secure a man at all.[1]
>
> The bonds of words are too weak to bridle men's ambition, avarice, anger, and other passions, without the fear of some coercive power.[2]

Security depends upon the existence of a government having the power to keep the peace and to apply the sanctions needed to curb man's innately unsocial inclinations. The effective motive by which men are socialized is the fear of punishment, and the authority of law

[1] *Leviathan*, ch. xvii. [2] *Ibid.*, ch. xiv.

extends only so far as its enforcement is able to reach. Just how this motive stands in relation to the reasonableness of performing covenants is not quite clear. Apparently Hobbes meant that reason provides a sufficient ground for mutual accord but is too weak to offset the avarice of men in the mass. In substance his theory amounted to identifying government with force; at least, the force must always be present in the background whether it has to be applied or not.

To justify force Hobbes retained the ancient device of a contract, though he carefully excluded the implication of a contract binding upon the ruler. He described it as a covenant between individuals by which all resign self-help and subject themselves to a sovereign. He stated it as follows:

> I authorize and give up my right of governing myself, to this man, or to this assembly of men, on this condition, that thou give up thy right to him, and authorize all his actions in like manner. . . . This is the generation of that great Leviathan, or rather (to speak more reverently) of that Mortal God, to which we owe under the Immortal God, our peace and defence.[1]

Since the 'right' resigned is merely the use of natural strength and "covenants without the sword are but words," this is a contract only in a manner of speaking. Properly it is a logical fiction to offset the anti-social fiction of his psychology. Undoubtedly it helped him to import the notion of moral obligation into social relations, and this added a good deal of plausibility to his argument. Strictly speaking he is saying merely that in order to co-operate men must do what they dislike to do, on pain of consequences which they dislike still more. In no other sense is there logically any obligation whatever in Hobbes's system.

Hobbes's thought on this point can be stated, perhaps more accurately, by using the legal conception of a corporation instead of contract, as he did in *De cive*.[2] A mere multitude, he argues, cannot have rights and cannot act; only individual men can do this, a conclusion which follows from the proposition that any collective body is merely artificial. Consequently, to say that a body of men acts collectively really means that some individual acts in the name of the whole group as its accredited agent or representative. Unless there is such an agent the body has no collective existence whatever. Hence Hobbes argues with perfect logic, if his premises be admitted, that it is not consent but 'union' which makes a corporation, and union means the submission of the wills of all to the will of one. A corporation is not really a collective body at all but one person, its head or director, whose will is to be received for the will of all its members. On this analogy it follows, of course, that society is a mere fiction. Tangibly it can mean only the sovereign, for unless there be a sovereign there

[1] *Leviathan*, ch. xvii.

[2] Ch. v, vi.

is no society. This theory is applied consistently by Hobbes to all corporations. Any other theory, he holds, would make them "lesser commonwealths," "like worms in the entrails of a natural man." The state is unique only in having no superior, while other corporations exist by its permission.

DEDUCTIONS FROM THE FICTITIOUS CORPORATION

From this view of the matter follow some of Hobbes's most characteristic conclusions. Any distinction between society and the state is a mere confusion, and the same is true of a distinction between the state and its government. Except there be a tangible government —individuals with the power to enforce their will—there is neither state nor society but a literally 'headless' multitude. Few writers have held this opinion as consistently as Hobbes. It follows also that any distinction between law and morals is a confusion. For society has only one voice with which it can speak and one will which it can enforce, that of the sovereign who makes it a society. Very properly does Hobbes call his sovereign a "mortal God" and unite in his hands both the sword and the crosier.

This theory of corporate bodies lies also at the root of Hobbes's absolutism. For him there is no choice except between absolute power and complete anarchy, between an omnipotent sovereign and no society whatever. For a social body has no existence except through its constituted authorities, and its members no rights except by delegation. All social authority must accordingly be concentrated in the sovereign. Law and morals are merely his will, and his authority is unlimited, or is limited only by his power, for the good reason that there is no other authority except by his permission. Evidently, also, sovereignty is indivisible and inalienable, for either his authority is recognized and a state exists or it is not recognized and anarchy exists. All the necessary powers of government are inherent in the sovereign, such as legislation, the administration of justice, the exercise of force, and the organization of inferior magistracies. Hobbes relieved sovereignty completely from the disabilities which Bodin had inconsistently left standing. But his disjunctions have nothing to do with the nuances of actual political power. His theory was pure logical analysis.

There was another side to his theory of sovereign power which Hobbes emphasized less but to which he was by no means blind. For controversial purposes he stressed the fact that resistance to authority can never be justified, since justification would require the approval of authority itself. It followed equally, however, that resistance will, in fact, occur wherever government fails to produce that security which is the only reason for subjects' submission. The only

argument for government is that it does, in fact, govern. Hence if resistance is successful and the sovereign loses his power, he *ipso facto* ceases to be sovereign and his subjects cease to be subjects. They are then thrown back upon their individual resources for self-protection and may rightly give their obedience to a new sovereign who can protect them. There was no room in Hobbes's theory for any claim of legitimacy without power, and it was this which gave offence to royalists. This consequence of his theory was most clearly stated in *Leviathan*, the only one of his books on politics written after the execution of Charles and when, as Clarendon says, Hobbes had "a mind to go home." But it was at all times a perfectly evident implication of his principles and he had referred to it in *De cive*. On utilitarian grounds government—any government—is better than anarchy. Monarchical government he thought more likely to be effective than any other kind, but the theory is equally good for any government that can preserve peace and order. Later thinkers had no difficulty, therefore, in adapting it to a republican or parliamentary form of government.

Since government consists essentially in the existence of sovereign power, it follows for Hobbes as for Bodin that the difference between forms of government lies solely in the location of sovereignty. There are no perverted forms of government. People impute perversion, with such terms as tyranny or oligarchy, only because they dislike the exercise of a power, just as they use terms of approval, like monarchy or democracy, if they like it. There is certain to be sovereign power somewhere in every government and the only question is who has it. For the same reason there is no mixed government and no limited government, since the sovereign power is indivisible. Some one must have the last decision and whoever has it and can make it good has sovereign power. Probably there is nothing in political literature that more perfectly illustrates the inability of a congenital utilitarian to enter into the spirit of a revolutionary age than these chapters in which Hobbes argues that all governments which keep order come to the same thing in the end. The aspiration for more justice and right seemed to him merely an intellectual confusion. Hatred of tyranny seemed mere dislike of a particular exercise of power, and enthusiasm for liberty seemed either sentimental vapouring or outright hypocrisy. Hobbes's account of the civil wars in his *Behemoth* makes them a strange mixture of villainy and wrong-headedness. The clarity of his political system had nothing to do with understanding human nature in politics.

From the theory of sovereignty it is only a step to that of the civil law. In the proper sense of the word, law is the "command of that person . . . whose precept contains in it the reason of obedience."[1] It is "to every subject, those rules, which the commonwealth hath commanded him, by word, writing, or other sufficient sign of the will,

[1] *De cive*, ch. xiv, 1.

to make use of, for the distinction of right, and wrong."[1] He was careful to point out that this definition sharply distinguishes civil from natural law, for the former is a command sanctioned by enforcement while the latter is a dictate of reason. The law of nature is law only in a figurative sense, for the imperative or coercive aspect of civil law is the essence of it. This, Hobbes explains, is the confusion in the position both of parliamentarians and of common lawyers like Coke. The former imagine that there is some virtue in the consent of a representative body and the latter that there is some validity in custom. In fact, it is the enforcing power that makes the precept binding, and the law is his who has the power. He may allow custom to persist, but it is his tacit consent which gives it the force of law. Doubly absurd is Coke's superstition that the common law has a reason of its own. Similarly, the sovereign may consult parliament or permit it to frame statutes, but the enforcement is what makes them law. Hobbes assumes that enforcement takes place in the king's name, but there is nothing in his theory contrary to the sovereignty of parliament, provided that body can both make the law and control its administration and execution. Hobbes was wrong in thinking that he could bolster up absolute monarchy but he was not mistaken in believing that centralized authority in some form was to be a chief mark of modern states.

Since the laws of nature merely state the rational principles upon which a state can be constructed, they are not limitations on the authority of the sovereign. Hobbes's argument sounds like a quibble but there was reason behind it. No civil law, he says, ever can be contrary to the law of nature; property may be a natural right but the civil law defines property, and if a particular right is extinguished, it simply ceases to be property and so is no longer included under the law of nature. What limits the sovereign is not the law of nature but the power of his subjects. Hobbes's sovereign is faced by a condition and not a theory, but there can be no limitation of the civil law in its own field. Bodin's conception of a constitutional law limiting the competence of the sovereign has disappeared entirely.

Hobbes's theory of sovereignty brings to completion the process of subordinating the church to the civil power which was begun when Marsilio of Padua carried through to its logical conclusion the separation of the spiritual and temporal authorities. For a materialist like Hobbes the spiritual becomes a mere ghost, a figment of the imagination. He does not deny that there is such a thing as revelation or as spiritual truths but he is clear that there is nothing to say about them.

[1] *Leviathan*, ch. xxvi.

> For it is with the mysteries of our religion, as with wholesome pills for the sick, which swallowed whole, have the virtue to cure; but chewed, are for the most part cast up again without effect.[1]

The very belief in non-material substances he regarded as a cardinal error derived from Aristotle and propagated by the clergy for their own advantage; it is the metaphysical side of that other cardinal error, the belief that the church is the kingdom of God and so endowed with an authority other than that of the state. Hobbes still affects to think that belief cannot be forced, but the profession of belief is an overt act and therefore falls within the province of law. Freedom of belief is completely inoperative so far as external consequences are concerned. All observance and profession, the canon of religious books, the creed, and the government of the church, if they have any authority, are authorized by the sovereign. Since there is no objective standard of religious truth, the establishment of any belief or form of worship must be an act of sovereign will.

A church, therefore, is for Hobbes merely a corporation. Like any corporation it must have a head and the head is the sovereign. It is a company of men united in the person of one sovereign and therefore quite indistinguishable from the commonwealth itself. Temporal and spiritual government are identical. Hobbes still holds, like Marsilio, that it is the duty of the church to teach, but he adds that no teaching is lawful unless the sovereign authorizes it. Excommunication or any other ecclesiastical penalty is inflicted by the authority of the sovereign. Obviously enough, then, as Hobbes concludes, there cannot be any conflict between divine and human law. In every sense that counts religion is completely under the sway of law and government. One easily conjectures that religion was not a matter of vital moment in Hobbes's experience. He attributed less moral weight to it than Machiavelli. The desire for freedom of conscience, like the desire for political freedom, seems to have figured in his mind merely as an evidence of intellectual confusion, and the force of a genuine religious conviction must have been quite unknown to him. At the same time ecclesiastical questions still bulked very large in his political outlook. Nearly half of *Leviathan* is devoted to them. In this respect English thought must have moved rapidly between 1650 and the end of the century. When Locke wrote forty years later he could assume far more actual separation of political and religious questions than Hobbes ever imagined.

HOBBES'S INDIVIDUALISM

Hobbes's political philosophy is beyond all comparison the most imposing structure that the period of the English civil wars produced. It is notable chiefly for the logical clarity of the argument and the

[1] *Leviathan*, ch. xxxii.

consistency with which it carried through the presumptions from which it started. It was in no sense a product of realistic political observation. The actual motives which sway men in civil life were largely opaque to Hobbes, and his interpretation of the characters of his contemporaries was often grotesque. His psychology was not conceived by him to be the product of observation. It was not so much a description of men as they are as a demonstration of what they must be in the light of general principles. This was what science meant to Hobbes—a rational construction of the complex by means of the simple, as exemplified by geometry. The resulting estimate of government was wholly secular and quite coolly utilitarian. Its value consists solely in what it does, but since the alternative is anarchy, there can be no doubt which a utilitarian will choose. The choice has little sentiment behind it. The advantages of government are tangible and they must accrue quite tangibly to individuals, in the form of peace and comfort and security of person and property. This is the only ground upon which government can be justified or even exist. A general or public good, like a public will, is a figment of the imagination; there are merely individuals who desire to live and to enjoy protection for the means of life.

This individualism is the thoroughly modern element in Hobbes and the respect in which he caught most clearly the note of the coming age. For two centuries after him self-interest seemed to most thinkers a more obvious motive than disinterestedness, and enlightened self-interest a more applicable remedy for social ills than any form of collective action. The absolute power of the sovereign—a theory with which Hobbes's name is more generally associated—was really the necessary complement of his individualism. Except as there is a tangible superior to whom men render obedience and who can, if necessary, enforce obedience, there are only individual human beings, each actuated by his private interests. There is no middle ground between humanity as a sand-heap of separate organisms and the state as an outside power holding them precariously together by the sanctions with which it supplements individual motives. All the rich variety of associations disappears, or is admitted suspiciously and grudgingly as carrying a threat to the power of the state. It is a theory natural to an age which saw the wreck of so many of the traditional associations and institutions of economic and religious life and which saw, above all, the emergence of powerful states in which the making of law became the typical activity. These tendencies—the increase of legal power and the recognition of self-interest as the dominant motive in life—have been among the most pervasive in modern times. That Hobbes made them the premises of his system and followed them through with relentless logic is the true measure of his philosophical insight and of his greatness as a political thinker.

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CHAPTER XXIV

RADICALS AND COMMUNISTS

HOBBES's political thought belonged essentially to the realm of scholarship or science. Though intended to influence the course of events in favour of the royalists, it had little or no effect of that kind, and as a solvent of traditional loyalties and a presentation of enlightened egoism, it contributed in the long run to a more radical liberalism than any that was within the bounds of practical politics in the seventeenth century. At the same time something of the radical individualism which Hobbes used as a philosophical postulate can be seen in the left-wing popular democracy that appeared in the course of the civil wars. This was not, of course, because the radicals learned from Hobbes, but because both were concerned with a social and intellectual change which transcended parties and immediate interests. The dissolution of traditional institutions and the economic pressure which it engendered were facts and not theories. Hobbes's logic turned egoism into a postulate for a social philosophy, but the conditions which made individualism an inescapable point of view existed in their own right. The belief that social and political institutions are justified only because they protect individual interests and maintain individual rights emerged under the pressure of circumstances which first became effective in England in the mid-seventeenth century, but which also persisted and became more effective during the two centuries following.

Not the least significant aspect of the English civil wars was the part which popular discussion played in them. They mark the first appearance of public opinion as an important factor in politics. The volume of occasional controversial writing produced was gigantic, far exceeding that of the French wars of religion, though the latter had not been small.[1] Much of this discussion was, in a broad sense, philosophical. It dealt at least with general ideas—theological, religious, and ethical—and their application to government. It aired abuses, discussed the

[1] The collection of tracts made by the bookseller George Thomason between the assembling of the Long Parliament in 1640 and the coronation of Charles II in 1661 (now in the British Museum), though it is not complete, contains more than twenty thousand titles. See the account of this pamphlet-literature in the commentary by William Haller in Volume I of *Tracts on Liberty in the Puritan Revolution, 1638–1647*, 3 vols. (New York, 1934).

constitution, argued for and against religious toleration, attacked or defended the government of the church and examined its relation to civil authority, claimed or denied every form of civil liberty, and proposed at one time or another most of the political devices which democratic governments have since tried. This pamphlet-debate was the first great experiment in popular political education using the printing press as the organ of government by discussion. However vague the ideas may have been or lacking in systematic coherence, they were at least being used to bring a measure of intelligent guidance into the political life of men in the mass. Ideas and aspirations spread among considerable numbers of Englishmen were not important exclusively for the results which they were immediately able to achieve.

Among these movements of popular political thought none is more interesting or important than the democratic radicalism which appeared in the group known as Levellers. In religion they belonged among the Independents, and like this sect generally, they favoured religious toleration and were opposed to the establishment of either an episcopal or a presbyterian form of church government. Though the group was not very definite in its composition, it formed for a short time, between 1647 and 1650, something like a real political party, having a definite idea of the political aims of the Revolution and a plan for resettling the constitution on liberal lines, depending upon a well-defined body of common political beliefs. It failed in all its purposes but it represented with remarkable distinctness the modes of thought and argument which were to characterize revolutionary liberalism in the eighteenth and early nineteenth centuries. It drew the lines pretty definitely between the liberalism of the less privileged economic classes and the more conservative liberalism, or Whiggism, of the well-to-do.

At the same time there appeared among the revolutionists another group, the Diggers, who sometimes called themselves the True Levellers and who were not at the time very clearly distinguished from the larger group. In numbers they were quite insignificant, all or nearly all of their written pronouncements coming from the pen of one man, Gerard Winstanley. In purpose and outlook, however, they seem to have been quite different from the larger group. For as the Levellers were an early instance of a radical middle-class democracy with political aims, the Diggers are more easily classified as the beginning of utopian communism, since they regarded political reform as superficial unless it could redress the inequalities of the economic system. The Levellers appear to have been drawn mainly from the less prosperous part of the middle class, while the Diggers were perhaps members of that class whom economic stress had pushed out into the ranks of the propertyless. At any rate, Winstanley says that he had been ruined in business by the "cheating art of buying and selling." The Diggers may be counted

as the first appearance of a proletarian social philosophy. The purpose of the present chapter is to examine these two types of early radicalism.

THE LEVELLERS

The Leveller movement ran its course within pretty definite limits of time and was related to a specific phase of the civil wars which helped to define its purposes as a party. The success of Cromwell's campaign against Charles had created, by the end of 1646, a political triangle from which a settlement of the Revolution had to be evolved. The king, defeated but not destroyed, might still hope for much if he could embroil the several factions of his enemies with each other. Parliament, a little dismayed by its success and uncertain what to do with its newly won sovereignty, was under a leadership more interested in establishing presbyterianism than in carrying out any specific plan of political reform. Finally, and most important, Cromwell's army, which had won the victory, had no intention of allowing the fruits to be gathered either by the king or the Presbyterians. In the game of shifty diplomacy which followed, Charles played for a new civil war and parliament played to get rid of the army and leave itself a free hand. The army, which alone had any real power, could have ended the shuffling at any moment, as it did three years later, but the leaders, Cromwell and his son-in-law Ireton, had a sincere dislike for military dictatorship and were deeply in doubt how best to give the Revolution a constitutional form. So hesitant were they that in 1647 they risked a threat of mutiny in the army. For the rank and file of the soldiers, well knowing that neither the king nor parliament could be trusted, became fearful that Cromwell also would barter away the reforms which they hoped from the Revolution. It was in these circumstances that the Levellers appeared, first as a radical party among the common soldiers, dissatisfied with the cautious and conservative plan of reform promulgated by their officers, and advocating their own radical programme of the results to be achieved by the Revolution.

Quite spontaneously regimental committees, remarkably like the soviets that appeared in the Russian army in 1917, sprang into existence and demanded a share in formulating the policies to be pursued. Fortunately there has been preserved an almost *verbatim* report of the discussions which followed in the Army Council, between the representatives of the officers, led by Cromwell and Ireton, and the representatives of the regiments who had, apparently, the sympathy and support of a very few of the higher officers.[1] Both before and after this occurrence in the army there appeared a number of pamphlets, chiefly by the leaders of the Leveller Party, John Lilburne and Richard Overton,

[1] *The Clarke Papers*, ed. by C. H. Firth. 4 vols. Camden Society Publications, 1891–1901.

setting forth both their practical objectives and the political philosophy upon which they acted.[1]

The debates in the Army Council are peculiarly interesting and vivid because they recreate actual conversations almost three centuries dead. They permit a glimpse into the minds of a group of Englishmen in lowly station, the small tradesmen, artisans, and farmers that made up the rank and file of Cromwell's army. They show what these men thought they had been fighting for and the inevitable clash between their ideas and those of the well-to-do classes represented by their officers. The danger of serious mutiny was real. In November 1647, Cromwell moved swiftly and sternly to restore discipline and soon after he determined on his own account to negotiate no further with Charles. This decision went far to restore the confidence of the main body of the army. In the latter part of 1648 the Levellers reappeared as a civil party, but their importance ended when the officers committed themselves to the policy of coercion that brought about the execution of the king.

John Lilburne, the principal leader of the Levellers, was the perfect type of radical agitator. Endlessly pugnacious in defending his 'rights' and in attacking abuses, he came into conflict at one stage or another of his career with every branch of government: Lords, Commons, Council of the State, and the officers of the army. He was honest and fearless but also quarrelsome and suspicious. Twice in his life, in 1649 and 1653, he was the hero of a spectacular political trial in which he won his acquittal by appealing to popular sentiment over the head of the court. Lilburne's influence was mainly due to his ability to dramatize himself as a symbol of popular liberties: "Where others argued about the respective right of king and parliament, he spoke always of the rights of the people." As a party the Levellers must have been a relatively small group drawn from the more politically minded of the poorer classes. Their projects attracted neither the landed gentry nor the well-to-do citizens of London. Indeed, they failed on all sides, first, in holding the mass of the army after confidence in the officers was restored; second, in carrying the officers for their radical reforms; and third, in gaining enough weight anywhere to influence parliament. The Levellers are interesting not because of anything they were able to do but because their ideas anticipated in so many respects both the ideology and the programme of later democratic radicalism.

[1] A few of these pamphlets (unfortunately not those published after 1647) are accessible in *Tracts on Liberty in the Puritan Revolution, 1638–1647*, ed. by William Haller (Washington, 1916). The party pronouncements of the Levellers are contained in the documents called "An Agreement of the People," first presented to the Army Council in 1647 and in a revised form, partly a compromise, to Parliament in 1649. Both are printed in S. R. Gardiner's *Constitutional Documents of the Puritan Revolution*, second edition (1899), pp. 333 and 359. The literature is summarized in T. C. Pease, *The Leveller Movement* (New York, 1934).

AN ENGLISHMAN'S BIRTHRIGHT

The name Leveller was obviously an epithet; it was meant to imply that the party sought to destroy differences of social position, of political rank, and even of property, levelling all men down to a condition of equality. An enemy paraphrased their argument as follows:

> Seeing all men are by nature the sons of Adam, and from him have legitimately derived a natural propriety, right, and freedom, therefore England and all other nations, and all particular persons in every nation, notwithstanding the difference of laws and governments, ranks and degrees, ought to be alike free and estated in their natural liberties, and to enjoy the just rights and prerogative of mankind, whereunto they are heirs apparent; and thus the commoners by right, are equal with the lords. For by natural birth all men are equally and alike born to like propriety, liberty, and freedom; and as we are delivered of God by the hand of nature into this world, every one with a natural innate freedom, and propriety, even so are we to live, every one equally and alike to enjoy his birthright and privilege.[1]

The author of this description was notoriously biased. In the party pronouncements of the Levellers there is not the slightest evidence that the "like propriety" which they desired included equalization of property or the levelling of social distinctions. They objected to political privilege on the part of the nobility and to economic advantage through monopolies in trade or the professional monopoly enjoyed by lawyers. The objection seems to have been aimed exclusively at legally supported privilege and not at social or economic inequality as such. The discussions reported in the *Clarke Papers* are filled with protestations, evidently sincere, that no attack on property was intended. The equality sought was equality before the law and equality of political rights, especially for the class of small property-owners. Indeed, the Levellers appear to have grasped with remarkable clearness the point of view of radical democratic liberalism, individualist rather than socialist in its philosophy and political rather than economic in its aims.

The basis of this individualism seems to have been a rationalist belief that the fundamental rights of human beings are self-evident. In view of their time and the evident connection of the Levellers with Independency, the argumentation in the *Clarke Papers* and in the pamphlets is surprisingly little dependent upon religious considerations or appeals to Scriptural authority. In fact, their opponents sometimes objected that they had too little respect for revelation in religion or for custom in law and government but wished to measure both by what was natural and reasonable.

> As they do in matters of religion and conscience they fly from the Scriptures, and from supernatural truths revealed there, that a man may not be

[1] Thomas Edwards, *Gangraena*, Part III, p. 17. Edwards refers to Richard Overton's *Remonstrance* (1646); see *Tracts on Liberty in the Puritan Revolution, 1638–1647*, ed. by W. Haller, Vol. III, p. 351.

> questioned for going against them, but only for errors against the light of nature and right reason; so they do also in civil government and things of this life, they go from the laws and constitutions of kingdoms, and will be governed by rules according to nature and right reason.[1]

The charge might have been supported by many sentences out of Lilburne's pamphlets, especially the later ones. As early as 1646 he asserted that men, merely because they are the children of Adam, are "by nature all equal and alike in power, dignity, authority, and majesty," and that in consequence all civil authority is exercised "merely by institution, or donation, that is to say, by mutual agreement and consent, given . . . for the good benefit and comfort of each other." In short, governments derive their just powers from the consent of the governed, meaning the individual consent of each and every citizen. One of the most picturesque assertions of this principle was made by one of the representatives of the regiments in the conference with the officers:

> Really I think that the poorest he that is in England hath a life to live as the greatest he; and therefore truly, Sir, I think it's clear, that every man that is to live under a government ought first by his own consent to put himself under that government; and I do think that the poorest man in England is not at all bound in a strict sense to that government that he hath not had a voice to put himself under.[2]

It should be granted that the argument of the Levellers was likely to be a little confused in respect to the 'birthright' which they claimed. It might consist of the traditional liberties of Englishmen supposed to be embalmed in the common law or Magna Charta, or it might be the universal rights of man. Like any expert agitator, Lilburne appealed to whatever made the strongest case in the circumstances —to the Commons against the Lords, to Magna Charta against the common law, and to reason against them all. So long as a precedent or a traditional right would serve there was no need to run into abstractions. But on the whole it was quite impossible for a party of radical reform to stand on custom. William Walwyn in 1645 observed that

> Magna Charta (you must observe) is but a part of the people's rights and liberties, being no more but what with much striving and fighting, was by the blood of our ancestors, wrestled out of the paws of those kings, who by force had conquered the Nation, changed the laws and by strong hand held them in bondage.[3]

In 1646 Richard Overton called Magna Charta a "beggarly thing" and took the argument quite out of the region of custom:

> Ye [Parliament] were chosen to work our deliverance, and to estate us in natural and just liberty agreeable to reason and common equity, for what-

[1] *Gangraena*, Pt. III, p. 20.
[2] *Clarke Papers*, Vol. I, p. 301.
[3] *Englands Lamentable Slaverie*, *Tracts on Liberty in the Puritan Revolution, 1638–1647*, Vol. III, p. 313.

> ever our foresathers were, or whatever they did or suffered, or were enforced to yield unto, we are the men of the present age, and ought to be absolutely free from all kinds of exorbitancies, molestations or arbitrary power.[1]

The distinction between customary and natural right was a bone of contention between Ireton and the representatives of the regiments. Ireton's legal mind was irritated by the indefiniteness of the claim:

> If you will resort only to the law of nature, by the law of nature you have no more right to this land or anything else than I have.[2]

What makes a right mine, "really and civilly, is the law." The Leveller was arguing that an unjust law is no law at all.

The interesting and distinctive feature of the Leveller philosophy is the new form which it gave to the ancient conceptions of natural right and consent. They interpreted the law of nature as endowing human individuals with innate and inalienable rights which legal and political institutions exist only to protect, and they construed consent as an individual act which every man is entitled to perform for himself. Almost as much as Hobbes, though not with his systematic clarity, they argued that the only justification for society is the production of individual advantages. Had they developed the conception of a contract, which is implicit in their idea of consent, it would clearly have been, like that of Hobbes, a social contract, deriving the social group from individuals who combine for mutual benefits, and not the older form of contract between king and community. The individual and his rights form the basis of the whole social structure. As in the characteristic social philosophy of radical liberalism, the only justification for restraint lies in the fact that restraint itself contributes to individual freedom.

MODERATE AND RADICAL REFORM

The plan of political reform which the Levellers sponsored agreed remarkably well with the principles of their political philosophy. They formed, as has been said, the left wing of the revolutionists in Cromwell's army, and their position is best defined by their differences from the more conservative plans formed by the officers. In 1647 the revolution was an accomplished fact and some constitutional settlement was obviously necessary. On many points there was substantial agreement between moderates and radicals, or the difference was a matter of detail rather than of principle. Both sides of course desired the removal of the worst abuses that had caused the war between the king and parliament. The essential difference lay

[1] *A Remonstrance, Tracts on Liberty in the Puritan Revolution, 1638–1647*, Vol. III, p. 354.
[2] *Clarke Papers*, Vol. I, p. 263.

in the fact that the officers, as a group, came from the landed gentry and desired a settlement leaving political power mainly with that class, though it is only fair to say that their plan included many democratic reforms which were not brought about in England until the nineteenth century. The Levellers and the men from the regiments, on the other hand, were men of small property, the class most likely to have been ruined by the war, and therefore desired a settlement distinguishing political rights and property rights as completely as possible. In consequence the officers, headed by Cromwell and Ireton, stood for a settlement making as few changes in the historical constitution as possible, consistent with saving the fruits of the war as they understood them. The Levellers wished to seize the opportunity for making sweeping changes, directed towards what they took to be a just and reasonable arrangement, without much regard for tradition.

> Ye know, the laws of this nation are unworthy a free people, and deserve from first to last, to be considered, and seriously debated, and reduced to an agreement with common equity, and right reason, which ought to be the form and life of every government.[1]

In the conferences between the officers and the representatives of the regiments, Cromwell was evidently staggered by the greatness and novelty of the changes proposed. Like many successful revolutionists, he was at heart a conservative; moreover, he knew much better than the Levellers how impractical, in the circumstances, it was to try to give effect to a system of abstract principles.

Before the agitation in the ranks began, the council of officers had already drawn up a document called the 'Heads of Proposals,'[2] which was the outline of a series of acts by which it was proposed that parliament should give effect to the constitutional changes wrought by the Revolution. The Agreement of the People, which was formulated in the ranks and brought by the representatives of the regiments to the Army Council, was a counter proposal sketching the form of government which the Levellers desired. It was agreed by both groups that the freedom of parliament must be secured, that frequent meetings must be made certain, and that there must be a redistribution of seats to give more equal representation. Both agreed, moreover, that parliament must control executive officers, including commanders of the army and navy, though the officers were content to make this a temporary arrangement for ten years, while the Levellers made it a permanent part of their constitution. Both sides agreed to a policy of religious toleration, except for Roman Catholics, and desired the removal of specified abuses in the administration of the law. With the

[1] Richard Overton's *Remonstrance*, *Tracts on Liberty in the Puritan Revolution, 1638–1647*, Vol. III, p. 365.
[2] Gardiner, *op. cit.*, p. 316.

acceptance of these changes, the officers were willing to restore the personal rights and liberty of the king, though this was not with them a main point and a little later they abandoned it. Some of the Levellers at least were definitely republicans and believed that monarchy was "the original of all oppressions,"[1] but its abolition seems not to have been a main point in the programme of the party. Republicanism was a means rather than an end in their plan of government.

Behind this rather large measure of agreement about means, however, there was a radical difference of political philosophy. The Levellers desired the independence of parliament not because of its traditional liberties but because it was the representative of the people. There was no doubt in their minds that the people and not parliament was sovereign and that parliament had a purely delegated authority. In line with the marked individualism of their theory of natural rights, also, they conceived parliament as standing for the actual human beings that composed the nation, and not as representing corporations, vested interests, and rights of property or status. These two features of their political philosophy—the delegated power of parliament and the right of every man to consent to law through his representatives —were the grounds upon which they urged the main parts of their radical programme.

Accordingly, while both the Levellers and the officers desired equality of representation in parliament, they had fundamentally different notions of what equality meant. The officers proposed a redistribution of seats on the basis of the proportion of taxes paid by constituencies, while the Levellers desired equality according to population. The more conservative view, which certainly was closer to the historical conception of parliament, looked upon that body as representing interests, the ownership of land or membership in a corporation in which trading was permitted. Ireton stated this view with great clearness. No man has a right to vote, he said, unless he has "a permanent fixed interest in this kingdom," an interest which is by nature irremovable and which forms a permanent part of the economic and political structure.[2] Equality of representation meant that even the least of such interests had a voice in choosing representatives; it did not mean that every man must have a voice. To this the Leveller replied that it is the man, not the interest, that is subject to law, and hence it is the man, and not property, that should be represented. He earnestly disclaimed any desire to interfere with the rights of property, which he regarded as included among man's natural rights, but he drew a sharp distinction between ownership and the possession of political rights. Political rights are not property, and even a poor

[1] Overton's *Remonstrance*, *Tracts on Liberty in the Puritan Revolution, 1638–1647*, Vol. III, p. 356.

[2] *Clarke Papers*, Vol. I, pp. 302 ff.

man has his 'birthright,' which the state is bound to protect no less than the property of the rich.

Consequently the Leveller stood in theory for universal manhood suffrage, possibly excepting paupers, or as a practical expedient for the lowest property qualification obtainable, while Ireton's theory meant in practice the restriction of suffrage to landowners. The officers undoubtedly believed that universal suffrage would endanger property and result in sheer anarchy. As Ireton said, if a man has a right to vote merely because he breathes, he may have a natural right even against the legal rights of property. Natural right is no right at all, since both political rights and the rights of property arise from law. But the exactions of the law, the Leveller answered, are just what need to be explained and justified. Unless the law is made with the people's consent, and unless a man has been represented in the body which made it, how can he be justly obliged to obey it? And how can a man be represented unless he has a voice in choosing his representatives? The two points of view are opposed with remarkable vividness: on the one hand, the theory that the community is an organization of permanent interests, particularly the landed interest, held together by customary privileges and exactions; on the other, the new conception of the nation as a mass of free individuals, co-operating from motives of self-interest, and making its law in the interest of individual freedom.

THE CURB ON THE LEGISLATURE

From the Leveller's point of view there was no more merit in parliament's claim to sovereign power than in the king's. Like the king, parliament has merely a delegated power, and it is as important to protect individual rights against a legislature as against an executive. The record then being made by the Presbyterian leaders of the Long Parliament was well calculated to convince a group of Independents that the bridling of a sovereign legislative body was not an academic question. Consequently the Levellers desired a constitutional device that would protect the individual in his fundamental rights even against his own representatives. The plan struck out was substantially that of a written constitution with its bill of fundamental rights. In recognizing the supremacy of parliament over other branches of government, the Agreement of the People expressly laid down the rule that there are certain rights of citizens which even parliament must not touch, and it attempts to enumerate some of them. Parliament must not repudiate debts, make arbitrary exceptions to the operation of law, or destroy the rights of property and of personal liberty. Particularly it must not take away or modify any of the rights set down in the instrument itself. In short, the Agreement is to stand as unchangeable constitutional law, a device actually adopted in the

Instrument of Government which set up the Protectorate in 1653. In 1648 the Levellers tried to secure what in the United States would be called a constitutional convention, a special representative body "not to exercise any legislative power but only to draw up the foundation for just government." The 'agreement' thus made was to stand as a kind of social contract, above the law, fixing the limits of parliament's legislative power; it was to be signed and agreed to by electors and candidates at every election. Like so many later constitutions planned to protect indefeasible human rights, the Agreement of the People undertook to legalize resistance, in case parliament should overstep the bounds set by the Agreement itself.

The Levellers, more than any other group in revolutionary England, approximated the political philosophy which later became typical of radical democracy. In them the ancient theory of natural law appeared in a new form: the innate right of every man to a minimum of political privilege, the doctrine of consent by participation in the choice of representatives, the justification of law and government as a protection of individual rights, and the limitation of every branch of government under the sovereign power of the people secured by a written list of inalienable rights. The presence of such a body of ideas in mid-seventeenth century England is doubly interesting because of the complete failure of their constitutional projects in that country, compared with their persistence and realization in America. The Instrument of Government in 1653 was the first and the last attempt in England to limit the legislative power of parliament by a written constitution, and the outcome of the Revolution was to settle the legal supremacy of parliament. In America the written constitution with its limitations upon legislatures became the general practice. The difference is not hard to explain. After the Restoration in 1660 the exchange of political ideas between England and America was much restricted, in comparison with what it had been earlier. In consequence the newer idea of parliamentary sovereignty never spread among the English in America, while the older belief in a fundamental law persisted and under favourable circumstances was developed upon lines similar to those suggested by the Levellers. This is not to say that the programme of the Levellers was imitated. Constitutional ideas both in England and America had a common root, and the state of affairs in America permitted an immediately more radical effort to give them effect.

THE DIGGERS

The pamphlets of the Levellers are eloquent of the economic distress which the civil wars brought to the small farmers, tradesmen and artisans in the less prosperous part of the English middle class. For the most part these men either followed the lead of the more

prosperous gentry or looked for help to a more radical political equality and the removal of such legal discriminations as monopoly. By a very few persons, however, the political revolution was conceived as an opportunity to bring about economic equality and to lift the burden of poverty from the masses.[1] The name 'True Levellers,' by which these communists sometimes described themselves, suggests at once that they originated as a left fringe of the radical party and that they were at least vaguely conscious of differing from them. On the other side, Lilburne denied emphatically that he had any connection with the communists. Contemporary confusions aside, the social philosophy of the communists was different in principle from that of the Levellers. The latter were radical democrats with mainly political purposes; the communists were utopian socialists with mainly economic purposes.

The communists sprang into notoriety in 1649 when a small group of them tried to take and cultivate unenclosed common land, with the purpose of distributing the produce to the poor. This gave them the name, Diggers, by which they were known in the seventeenth century. Though this action caused a flurry of apprehension among landowners, it was quite negligible in its effects. The Diggers were immediately dispersed with the usual accompaniment of maltreatment—beating and the destruction of their meagre goods—that is the lot of miserable folk when they are too few to be formidable. Their number cannot be known but it was certainly trifling. The only result was a few pamphlets, mainly if not wholly the work of Gerard Winstanley who, like Lilburne, ended his life a Quaker. In these pamphlets he presented a scheme of agrarian communism as clear-cut as the Levellers' scheme of radical democracy.

The common ground between the Leveller and the communist lay in the fact that both claimed the law of nature as their justification, as any radical in the seventeenth century was certain to do. The Leveller turned the law of nature into a doctrine of individual rights, of which the right of property was inevitably one of the most important. The Digger interpreted the law of nature as a communal right to the means of subsistence, of which land was the most important, and gave to the individual only the right to share in the produce of the common land and the common labour. The land is given by God or nature to be "the common treasury" from which all are entitled to draw their sustenance.

[1] This was first called to the attention of historians by Eduard Bernstein in his *Sozialismus und Demokratie in der grossen Englischen Revolution* (first edition, 1895), translated by H. J. Stenning as *Cromwell and Communism* (1930). The communist pamphlets are described by G. P. Gooch, *English Democratic Ideas in the Seventeenth Century* (second edition, 1927), pp. 175 ff., and by Lewis H. Berens, *The Digger Movement in the Days of the Commonwealth* (London, 1906). A letter by Winstanley to Lord Fairfax is printed in the *Harleian Miscellany*, Vol. VIII, p. 586.

> None ought to be lords or landlords over another, but the earth is free for every son and daughter of mankind to live free upon.[1]

The 'natural' state of man is therefore one of common ownership, and the communist pictured the English Revolution as nothing less than the occasion for a return to this idyllic condition.

The origins of this conception can only be guessed at. It is natural to suspect that there was some continuity with the ideas of obscure proletarian uprisings which economic distress had produced from time to time both in England and on the Continent, or more specifically with the Peasant Revolt in Germany and the Anabaptist movement. At all events the principle from which the communists started was the Christian belief, widespread through the Middle Ages, that common possession was a more perfect way of life than private ownership, which was commonly held not to be 'natural' but the result of human wickedness. The significant part of the Diggers' philosophy was the way in which they reversed the conclusions drawn from this belief. The usual deduction had been that private property, though less perfect than common ownership, is nevertheless the best practicable concession to the fallen nature of man. The Digger inferred that private property itself is the main cause of evil and of all forms of social abuse and corruption. The root of all evil is covetousness and greed, which first produced private property, while the latter causes all supremacy of one man over another, all manner of bloodshed, and the enslaving of the masses of men, who have been reduced to poverty by the wage-system and are forced to support by their labour the very power that enslaves them. Consequently most social ills and most of human vice can be removed by destroying private property, especially in land. The similarity of the Digger argument to Rousseau's essay on "The Origin of Inequality among Men" is striking.

As a matter of course the pamphlets of the Diggers breathe enmity against the landlords.

> You Pharaohs, you have rich clothing and full bellies, you have honours and your ease; but know the day of judgment is begun and that it will reach you ere long. The poor people you oppress shall be the saviours of the land. If you will find mercy, let Israel go free; break to pieces the bands of property.[2]

But the denunciation was no less bitter of lawyers and the clergy, not so much because the former corrupt the law or the latter teach bad theology, as because both are the main supports of private property. All English history since the Conquest is read in this sense: the Conqueror took the land from the people and gave it to his 'colonels' from whom it has descended to the present landlords. England is a prison; the subtleties of the law are its bolts and bars, and the lawyers

[1] *Harleian Miscellany*, Vol. VIII, p. 590.
[2] *The True Leveller's Standard Advanced* (1649), quoted by Gooch, *op. cit.*, p. 184.

are its jailors. All the old law books ought to be burned. At the same time the Conqueror hired the clergy with tithes to "preach him up" and to "stop the people's mouths" by teaching them to be submissive. The deduction is evident: since now, by the Revolution, the kingly power has been cast out, the whole system of private landowning must go with it, for unless the people get back the land, they are deprived of the fruits of victory.

Fiery as all this sounds, the Diggers disclaimed any intention of inciting to violence or of expropriating the landlords by force. What they might have done if they had been more numerous cannot be known; since they were at most a handful, the preaching of violence would have been suicidal. What they expressly claimed was the right to cultivate common land, leaving the enclosed land to its owners. There is no reason to doubt their sincerity. Like most utopians, they were professed pacifists and they probably believed that the excellence of the new way of life would commend it even to landlords. Perhaps also they counted upon some mysterious softening of hearts, for though they were violently anti-clerical, they were also profoundly religious. "Jesus Christ," they said, "is the head Leveller." Apparently they were simple-minded folk who thought that the Christian doctrine of brotherly love was to be taken as it was written.

WINSTANLEY'S "LAW OF FREEDOM"

Gerard Winstanley, the only important writer among the Diggers, produced one book, his *Law of Freedom* published in 1652 and addressed to Cromwell, which was more than a pamphlet. It drew the outlines of a Utopian society with some precision, as a "platform of commonwealth's government" according to the rule of righteousness. The fundamental thought behind Winstanley's commonwealth is that the root of all bondage is poverty: "A man had better to have had no body than to have no food for it." True freedom means that all equally have access to the use of the earth and its fruits. In human nature there are two opposed tendencies, the desire for common preservation, which is the root of the family and of all peace and righteousness; and the desire for self-preservation, which is the root of covetousness and tyranny. To the first corresponds commonwealth, in which the weak are protected equally with the strong. To the second corresponds kingly government and the law of the conqueror. The essential difference is that kingly government rules by the "cheating art of buying and selling"; it is the government of the highwayman who has stolen the earth from his younger brother. Hence the essence of reform is the prohibition of buying and selling, especially the land. There can be no equality short of equality of goods, for wealth gives power, and power means oppression. Moreover, wealth cannot be honestly

earned. No man gains wealth by his own effort but only by withholding a share of what is produced by his helpers.

Real liberty requires, therefore, that land shall be owned in common. The produce of the land should be put into a common store whence all may draw according to his needs. All able-bodied persons must be compelled to work at productive labour, at least until they reach the age of forty. The family, with personal effects and private houses, Winstanley would leave untouched. To perpetuate the commonwealth he provided an elaborate scheme of magistrates and a rigid code of laws, to be kept simple and not interpreted. As political devices he relied mainly upon universal suffrage and the limitation of terms of office to a single year. Not the least interesting part of the plan was his project for reducing the national church to an institution for popular education. Apparently the supernatural had little part in his conception of religion. The clergy, who at present "make sermons to please the sickly minds of ignorant peoples, to preserve their own riches and esteem among a charmed, befooled, and besotted people," are to become schoolmasters, giving instruction on each seventh day in public affairs, history, and the arts and sciences. "To know the secrets of nature is to know the works of God"; what is usually called divinity is the "doctrine of a weak and sickly spirit." "This divining spiritual doctrine is a cheat." Not the least important part of education is training in the useful trades and crafts.

> While men are gazing up to Heaven, imagining after a happiness, or fearing a Hell after they are dead, their eyes are put out, that they see not what is their birthrights.[1]

Winstanley's communism stood quite by itself in the political philosophy of the seventeenth century. It spoke with the authentic voice of proletarian utopianism, giving expression to the first stirring of political aspiration in the inarticulate masses and setting up the wellbeing of the common man as the goal of a just society. Utopian though it was in its purposes, it rested upon a clear insight into the inevitable dependence of political liberty and equality upon the control of economic causes. Only in Harrington can there be found in the seventeenth century a more definite idea of the dependence of politics upon the distribution of wealth. Nowhere is there a clearer perception of the fact that economic exploitation is the problem which a democratic society has to solve. Rooted though his political ideals must have been in religious faith, few writers of the age were so free from the bondage of institutional religion or so ready to transmute doctrine into brotherly love and enlightenment.

[1] Quoted by Bernstein, *op. cit.*, p. 127.

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CHAPTER XXV

THE REPUBLICANS: HARRINGTON, MILTON, AND SIDNEY

THE issue of republican as against monarchical government does not appear to have played an important part at any stage of the Puritan Revolution. The officers of Cromwell's army were prepared in 1648, to release the king and restore his power, with proper safeguards, after an interval in which the results of the Revolution could be secured. Yet these same officers a few months later were driven to the execution of Charles not by republican principles but by the conviction that no settlement with him could be made permanent. The Levellers, though some of them were convinced republicans, seem not to have regarded the abolition of the monarchy as a chief end. Anti-monarchical principles were therefore of slight practical importance. It is true, however, that there was a small volume of definitely republican theory, though this was somewhat heterogeneous in its nature, perhaps because it never had to organize itself to produce results. John Milton and Algernon Sidney defended republicanism on the abstract ground that it was implied by natural law and the sovereign power of the people. James Harrington, though the creator of a utopia, laid aside more completely than any other writer the familiar legalist argumentation and defended republicanism as a consequence of social and economic evolution. While Harrington was wrong in believing that monarchy had become impossible, he was right about the shifting of economic power which any English government had to take into account.

Harrington was a political thinker of quite unusual power and independence, the only observer of the Puritan Revolution who had any philosophical grasp of the social causes behind it. Though a convinced and outspoken republican, he was by birth and association an aristocrat, an intimate friend who attended King Charles even to the scaffold. He was an admirer of Hobbes, whom he called "the best writer at this day in the world," but his political thought was in method the very antithesis of Hobbes's. What he admired in Hobbes was his belief in universal causation and his attempt to understand scientifically the springs of human conduct. But he must have felt that Hobbes failed to live up to the light that was in him. For his theory of the social contract abandoned causes for a legal analogy, and

his theory of sovereign power failed to analyse the social causes which alone give any government real power. It was this analysis which Harrington undertook to supply, and in so doing he proved himself to be a political philosopher of first-rate originality, not the equal of Hobbes in the bold sweep of his reasoning but much his superior in the grasp of political realities.

In form Harrington's *Oceana*, published in London in 1656,[1] belongs to the class of political utopias; it described the formation of a new government for the fictitious Commonwealth of Oceana. This government was pictured with a good deal of fanciful detail, yet there was comparatively little in Harrington's thought that was intrinsically utopian. Oceana was obviously England, and there is never any doubt about the real persons or historical events to which he referred. The book was addressed to Oliver Cromwell and was intended as a tract for the times, the elaborate and rather tiresome fiction being perhaps a means of forestalling the censorship. There was nothing imaginative about Harrington's method of political theorizing. He was an ardent admirer of Machiavelli, whom he regarded as the only modern political writer approaching the heights of ancient statesmanship. Like Machiavelli and Bodin, he used a method that was mainly historical and comparative. Every feature of the fictitious government of Oceana was copied from, and defended by reference to, ancient or existing governments, particularly the Jews, Rome, Sparta, and Venice. The study of history and the observation and comparison of existing governments are asserted to be the only means by which one can learn the craft of the statesman.

THE ECONOMIC BASIS OF REPUBLICANISM

Harrington stood alone among the political writers of his time in seeing that government is determined both in its structure and in its working by underlying social and economic forces. In an age when the rancour of parties and sects was intense and when each party explained civil disorder by the stupidity or wickedness of its opponents, Harrington almost achieved scientific detachment, though he was intensely in earnest in offering his imaginary government as a plan for political construction. The underlying thought in Harrington's theory is that the form of government which is permanently possible in a country depends upon the distribution of property, especially property in land. Whatever class owns a preponderating 'balance' of the land, say three parts in four, must by sheer economic necessity command the power to control government.

In place of enlarging upon the vices of royalists or parliamentarians,

[1] The only good contemporary edition is by S. B. Liljegren (Heidelberg, 1924). Harrington's *Works* were edited by John Toland (London, 1700), and often.

therefore, Harrington offered an economic-historical theory of the civil wars which, so far as it went, was perfectly sound. The explanation, he believed, must be sought far back in the social history of Tudor England. The causes of the demand for popular government began with the destruction of the English nobility in the Wars of the Roses and the consistent policy followed by Henry VII of dividing large estates among relatively small owners and thus of increasing the yeomanry at the expense of the nobility. The second great step in the same direction was the breaking up of the monasteries by Henry VIII, a policy which dispossessed the greatest of English landlords, the church, and put in its place a multitude of small owners. The result in both cases was to distribute wealth among a numerous class of landowners from whom the demand for popular rights was certain sooner or later to arise. With admirable irony Harrington described the political tactics of Elizabeth as "converting her reign through the perpetual lovetricks that passed between her and her people into a kind of romanze." But political play-acting could only put off the day when the realities of popular ownership would have to be recognized.

> When a prince, as stiff in disputes as the nerve of monarchy was grown slack, received that unhappy encouragement from his clergy, which became his utter ruin, while trusting more unto their logic, than the rough philosophy of his Parliament, it came unto an irreparable breach.[1]

This theory Harrington derived partly from Aristotle's view that revolutions are caused chiefly by inequalities of property and partly from Machiavelli's belief that a powerful nobility is inconsistent with popular government. The latter, he remarked, had failed to note the economic reason for his observation, but when Machiavelli is supplemented by Aristotle the clue to a correct theory is found. The number of landowners is fundamental; if a large balance of land is held by the nobility, the commoners must be dependent upon them economically and therefore politically. If the land passes into the hands of many commoners, the power of the nobility must be correspondingly curtailed. By this theory Harrington meant also to correct and supplement Hobbes. He went straight to the heart of the latter's superficial explanation of government as mere power resting upon a covenant.

> As he [Hobbes] said of the law, that without this sword it is but paper; so he might have thought of this sword, that without an hand it is but cold iron. The hand which holdeth this sword is the militia of a nation . . . but an army is a beast that hath a great belly and must be fed; wherefore this will come unto what pastures you have, and what pastures you have will come unto the balance of propriety, without which the public sword is but a name or a mere spit-frog.[2]

Power in the legal sense is no self-explanatory term; it presumes social

[1] *Oceana*, ed. by Liljegren, p. 49. [2] *Ibid.*, p. 16.

force and this in turn presumes a control of the means of subsistence. The issue between Hobbes and Harrington was that between a legal logician and a social economist.

For Harrington, then, the outcome of the civil wars was a foregone conclusion; it was a question not of abstract right and wrong but of social causes. Control of the land had passed into the hands of the middle class and with it the sources of political power. Temporarily the Tudor monarchy might exercise great power, pending the time when the new class became, so to speak, politically self-conscious, but sooner or later government must conform to the distribution of property. It was upon this ground that Harrington was a republican. He had no theoretical objection to monarchy, though he believed a commonwealth to be superior.

> The course of England, into a commonwealth, is both certain and natural. The ways of nature require peace: The ways of peace require obedience to the laws: Laws in England cannot be made but by Parliaments: Parliaments in England are come to be mere popular assemblies: The laws made by popular assemblies (though for a time they may be awed, or deceived in the end) must be popular laws; and the sum of popular laws must amount to a commonwealth.[1]

This sentence was published within a year of the restoration of the monarchy and therefore offered a handle to gibing critics, but few sentences written in the seventeenth century went deeper into the fundamental facts of the change that had taken place in England. For better or worse the landed gentry were in the saddle and no permanent settlement could fail to take account of that fact.

In Harrington's judgment the property which really counts in a political settlement is land. Undoubtedly he exaggerated the political weight of landownership and correspondingly underestimated the influence of manufacture, trade, and finance. He admitted that, in a very small state composed of merchants, such as Florence, money may outweigh land, but he believed this to be impossible in a country the size of England. In this he was right so far as his own time was concerned. But he had the point of view of a landowning class and so failed to see the importance that trade was assuming even in the England that he could observe. Thus his judgment that England would outstrip Holland commercially (which was right as to the fact) was based upon the belief that she would do so because of her ability to produce her own raw materials, which was certainly wrong in the event.

Upon his theory of the balance of landownership Harrington proceeded to make his own classification of the forms of government. He used here the traditional threefold classification into monarchy, aristocracy, and democracy, with the three corresponding perversions

[1] *Art of Lawgiving*, *Works*, 1747, p. 432.

derived from Aristotle, but his revision was so original that it completely made over the tradition. His threefold classification consists of absolute monarchy, mixed or feudal monarchy, and the commonwealth, each depending on typical forms of land-tenure. If the king can keep the control of the land in his own hands, letting it out to a large number of small tenants who can be forced to give military services to the king, the result is absolute monarchy, a government of the military type exemplified by Rome in the days of the imperial despots and by the Turkish Empire. When the land passes into the hands of a relatively small number of nobles, who control large bodies of their own retainers, a mixed monarchy results. This is inevitably a weak form of monarchy, because the king is dependent upon his great vassals, who tend to be rebellious, though their mutual rivalry prevents them from destroying the kingship outright. Finally, if the great feudal estates are broken up and the nobility are unable to support great troupes of retainers, the foundation is laid for a commonwealth or popular form of government.

By means of this theory Harrington was able to sweep away entirely the vague notion of the 'corruption' of a people which had bulked large in Machiavelli's thought and which was inherent in the old theory of a cycle of constitutions. The so-called corruption which turns a commonwealth into a monarchy is merely a change in the control of land. "The corruption of one government . . . is the generation of another." If there is moral change at the same time, this too results from a change in the ownership of property. Harrington's classification leaves room for what may be called 'perverted' forms of government, but these are merely cases in which, for some temporary reason, a government exists which does not accord with the balance of property. In this sense the monarchy of Elizabeth was a perversion. There are also cases in which the balance of power is not decisive. If the land were about equally divided between nobility and commoners, stable government would be impossible unless one class could 'eat out' the other. The plan offered a flexible, and comparatively a realistic, means of classifying governments.

THE EMPIRE OF LAW

Harrington, however, was not an economic materialist. Property is itself a legal institution, and hence it is possible by law, not indeed to change radically the distribution of property, but to perpetuate a distribution favourable to a desired form of government. He attributed politics to two principles. The one is force, depending upon the distribution of property and limiting the possibilities of stable government but still leaving some room for choice. The second principle is 'authority' which depends, as he says, upon the goods of the mind,

such as wisdom, courage, and prudence. Wisdom or reason in an individual looks to the interest of the individual, and similarly wisdom in a commonwealth looks to the good of the whole body. Harrington would perhaps have been more consistent if he had treated authority or prudence as strictly relative to the form of government in which it must work, but he was influenced at this point by his very sincere republicanism. Broadly speaking he made the distinction between force and authority parallel to that between 'ancient prudence,' or the art of governing by law for the common good, and 'modern prudence,' or the art of exploiting the community in the interest of an individual or a class. Among modern writers he believed 'ancient prudence' to be represented by Machiavelli and 'modern prudence' by Hobbes. Since modern prudence begins with the decay of the Roman Republic, the contrast corresponds substantially to that between monarchy, whether absolute or mixed, and the commonwealth. Harrington shared the enthusiasm of the Renaissance for antiquity. His commonwealth was intended to approach as closely as possible to such ancient models as Athens, Sparta, Rome, and the Jewish state, all of which he considered to be popular governments within his meaning of the term.

The distinguishing mark of a commonwealth is that it is "an empire of laws and not of men." Hobbes, Harrington says, was guilty of mere confusion when he argued that, since all governments subject men to some control, the liberty of the subject is equal under every system of law. Harrington's distinction here is practically the same as that drawn by Aristotle between tyranny, which is personal and arbitrary, and constitutional government, which is according to law, in the public interest, and with the participation and consent of its subjects. All forms of government, including the commonwealth, require the coincidence of power with authority. No amount of wisdom can keep a government going smoothly unless political power and economic power fall together, but it is equally true that government does not flow spontaneously from a given economic arrangement. Like Aristotle and Machiavelli Harrington assumed that politics is an art. But the commonwealth, properly organized, is more truly a government of laws than monarchy and is also more stable. For absolute monarchy is essentially a government of men and feudal monarchy is a theatre for the rivalry of king and the nobility. The commonwealth alone permits liberty under law and gives adequate scope for true statesmanship and public spirit. Harrington believed that men are intrinsically sociable and not selfish, but he was willing to put as little strain as possible upon unselfishness. True statecraft aims to make self-interest and public interest agree, and popular government most readily does this. Such a state Harrington called an "equal commonwealth." In this form of government those who have

any interest in being seditious lack the power, and those who have the power lack the interest. Such a government ought to be permanent, so far as internal causes of decay are concerned.

The remainder of Harrington's political philosophy was devoted to an analysis of the means by which this end could be achieved. Logically the corner stone of the system must be the prevention of serious changes in the distribution of land, or in the case of a commonwealth, the prevention of its being concentrated in a few hands. Hence the importance attached by Harrington to his 'agrarian law,' which amounted merely to a rule requiring the division of large estates among several heirs in parts having not more than £2000 annual income. The law by which an estate was entailed upon the eldest male heir appeared to him both to endanger political equality and to violate every principle of justice.

> I marvel much how it comes to pass, that we should use our children, as we do our puppies; take one, lay it in the lap, feed it with every good bit, and drown five![1]

However, he aimed not at the abstract injustice but at the social danger. Under the agrarian law which he proposed, if only one heir exists he may take the whole estate whatever its size, and if the estate is below the maximum it may be devised to a single heir. It is only the large estate to which there are several male heirs that must be divided. Harrington was not concerned to extend the popular ownership of land in England but to keep the *status quo*.

> We do not now argue for that which we would have, but for that which we are already possessed of.[2]

He estimated that five thousand owners were enough to make England safely a commonwealth.

It is difficult to say how broadly based Harrington's popular government was intended to be. Citizenship he restricted to such as "live of their own," which excluded servants and wage-earners, and yet the figures which he used in his outline of government apparently assumed something like half a million citizens above the age of thirty. Accordingly, if he had any accurate conception of the population of England in his time, the excluded classes would have been negligibly small. At all events it was no part of his plan to limit political rights to landowners. His property qualification for the senate was low and he defended the payment of members in order to open it to poor men. On the other hand he took for granted an aristocratic leadership for the commonwealth.

> If any man have founded a commonwealth, he was first a gentleman.[3]

So long as the gentry are too numerous to form a nobility, they are

[1] *Oceana*, p. 94. [2] *Ibid.*, p. 93. [3] *Ibid.*, p. 35.

not a threat to a commonwealth but its very life-blood. The choice of magistrates by election commended itself to Harrington because he supposed it would draw upon the "natural aristocracy" of ability which belongs mainly to the gentry. He scouted the idea that popular government would be used as a means of levelling economic differences.

THE STRUCTURE OF THE COMMONWEALTH

When the foundation of a commonwealth has been laid in an agrarian law, there are three devices of statecraft for keeping government responsive to the popular will. The first is rotation in office, which Harrington compares to the circulation of the blood. Magistrates ought to be elected to office for short terms, usually a year, and ought to be ineligible to immediate re-election. Second, to secure a free choice by electors, election ought to be by ballot. Harrington devoted much space to elaborating a plan for secret voting, following devices which he says he had seen used in Venice. Third, in constructing a free government he thought it essential to secure a separation of powers. Harrington's division of political powers, however, did not correspond precisely to that later made familiar by Montesquieu but followed a line suggested by his study of the city-state. The deliberative or policy-forming function he regarded as necessarily aristocratic, in the sense that it must be performed by a few persons who have experience and expert knowledge. The acceptance or rejection of a proposed policy he regarded as a popular function which ought to be performed by a large body elected for that purpose and having no power to deliberate. Rather curiously, in view of English experience just prior to the civil wars, he had nothing to say about the independence of the judiciary.

An agrarian law, rotation in office, the ballot, and the separation of powers are the structural principles of what Harrington called an "equal commonwealth," in which he believed that the interest and the power for sedition could never be united. He defined it as follows:

> An equal commonwealth . . . is a government established upon an equal Agrarian, arising into the superstructure or three orders, the senate debating and proposing, the people resolving, and the magistracy executing by an equal rotation through the suffrage of the people given by the ballot.[1]

Not content with principles, however, he proceeded to work out a constitution for Great Britain, giving his principles detailed application. This elaboration was chiefly responsible for his reputation as a utopian. He took a childish pleasure in drawing the details of the picture, even down to the dates and hours when his assemblies should meet and the clothes which his officials should wear. In fact, these fanciful details had little to do with the principles of his philosophy.

[1] *Oceana*, p. 33.

The doctrinaire part of his thought was his faith in the efficacy of political machinery, and in this respect he did not differ much from his contemporaries. It is strange that a man who saw as far as he did into the economic causes of political power should still have placed so much reliance upon apparatus.

Harrington's constitution begins by dividing the whole people into freemen, who are citizens, and servants. The citizens are then divided on the basis of age into the active military class, who are under thirty, and the elders, who form a military reserve and also the civil 'orb' of the commonwealth. They are further divided according to wealth into cavalry and infantry, corresponding roughly to gentry and common people. The plan of government is an elaborate scheme of indirect representation. The smallest local unit is the parish, in which all the elders elect one-fifth of their number to be deputies to the next larger unit, a group of parishes totalling about a hundred deputies. Twenty hundreds combine to form a tribe. The parishes, the hundreds, and the tribes all elect their local magistrates, and in addition each tribe elects two knights each year to the senate and seven representatives (three knights and four commoners) to the "Prerogative Tribe," which functions as the people in enacting legislation. The terms are three years, and since there are fifty tribes, the senate consists of three hundred members, one hundred retiring each year, and the people of ten hundred and fifty, three hundred and fifty retiring each year. The senate elects the chief magistrates and also four councils—on state, war, religion, and trade—in which business mainly originates. In accordance with the division of powers, the function of the senate is debate. After it has formulated legislation or policy, its proposals are printed and transmitted to the people or prerogative tribe, which decides, either by enacting or rejecting or returning the measure to the council for further consideration, but cannot itself debate or amend.

Implicit in Harrington's scheme of government but not clearly stated were the constitutional ideas, already familiar in the seventeenth century, of a written instrument of government, an extraordinary legislative body for constitution-making, and the distinction between statutory and constitutional law. Writing in 1656, he necessarily addressed his plan to Cromwell, whom he clothed in the glamour of a mythical lawgiver. What he wished Cromwell to do was to set up a council of statesmen and scholars to formulate a new government, every one being free to carry their proposals to the council. Once formulated the constitution was to be promulgated by articles each dealing with some important element of the structure. Harrington nowhere discussed the amendment of this constitution, but it seems clear that he meant to distinguish between its provisions and ordinary acts of the legislature.

In dealing with the thorny problem of religious freedom Harrington tried to effect a compromise between congregationalism and a national church. Some form of national religious establishment he believed to be necessary, both to provide decent stipends for the clergy and to maintain forms of worship in accord with the national conscience. He was opposed, however, to any form of coercion, which he regarded as the cause of "that execrable custom, never known in the world before, of fighting for religion and denying the magistrate to have any jurisdiction of it."[1] Hence he believed that each congregation might be left free to choose its own clergymen and that other forms of worship besides those established by law might be permitted, except in the case of Jews and Catholics. He desired also a national system of schools, supported at public expense and free to indigent students, at which attendance should be compulsory between the ages of nine and fifteen.

Despite the fanciful form of Harrington's republic, he combined in it a surprising number of the devices that later came to be thought typical of liberal government. The written constitution, the election of magistrates, the use of the ballot, short terms and rotation, the separation of powers, guarantees of religious freedom, and popular education at public expense are illustrations of the point. Yet Harrington was emphatically not a democrat either in purpose or theory. The leadership of the commonwealth he believed to be safely in the hands of the landed gentry, and the superiority of this class, both in power and capacity, he treated as axiomatic. His theory of economic causation excluded a democratic ideal such as that of the Levellers, which presumed a separation of political rights from the rights of property. Harrington's political ideal was the ancient republic under aristocratic auspices, and in this respect he agreed with all republicans of his time. He stood alone, however, in emphasizing the dependence of forms of government on the distribution of wealth, and his explanation of the origin of the civil wars was probably the most realistic piece of social theorizing that was produced. Harrington was right in believing that the rise to power of the landed gentry was the fundamental social fact of the age, but a better understanding of English trade might have suggested to him that the equalizing of landholdings was no adequate means of perpetuating their power. The extension of trade was quite incompatible with anything like economic equality. Had he seen this, he would have been logically obliged either to look for more drastic kinds of political control over wealth or to alter his whole conception of popular government.

[1] *Oceana*, p. 38.

JOHN MILTON

The republicanism of John Milton and Algernon Sidney was less original and less important than that of Harrington. The connecting link between the three men was their admiration for antiquity and their idealization of the aristocratic republic. Milton and Sidney had no such knowledge of political history and comparative institutions as Harrington and no such grasp of the social causes of political change. With them republicanism was a moral ideal based on the abstract ground of natural right and justice. Neither made any significant addition to political ideas generally familiar in the seventeenth century. Milton's tracts are chiefly memorable for the magnificence of the literary form in which he clothed ideas already known to every one and for the eloquence in which he embodied a noble political ideal. Sidney's rather rambling and ill-constructed book would perhaps hardly have been noticed, had it not been written in a peculiarly lean period of English political thought and had it not become the occasion of one of Jeffrey's most celebrated judicial atrocities.

Of all Milton's tracts the most memorable is the *Areopagitica* (1644), his defence of freedom of publication. Though it apparently received little notice when it was written,[1] it has become, together with John Stuart Mill's essay *On Liberty*, the classic argument for free speech in the English language. Milton stated once for all the faith of intellectual liberalism, that truth will prevail over error when both may be freely tested by investigation and discussion:

> And though all the winds of doctrine were let loose to play upon the earth, so truth be in the field, we do injuriously by licensing and prohibiting to misdoubt her strength. Let her and falsehood grapple; who ever knew truth put to the worse, in a free and open encounter. . . . For who knows not that truth is strong next to the Almighty; she needs no policies, nor stratagems, nor licensings to make her victorious, those are the shifts and defences that error uses against her power.[2]

Hence Milton could do what few men of his age could do: he could look with equanimity on the multiplication of sects and parties as experiments in the search for new truth and new freedom. His defence of religious toleration was limited by the prejudices of his age and his party. It did not extend to Roman Catholics, partly because he thought them idolaters and partly because he thought them incapable of loyalty to any ruler save the pope. But even with this limitation the *Areopagitica* is the finest argument ever written against the stupidities and futilities of censorship.

Milton's fame as a publicist came mainly after his appointment in 1649 to the secretaryship of the Council of State for the Commonwealth. Already in his *Tenure of Kings and Magistrates* he had defended

[1] See *Tracts on Liberty in the Puritan Revolution, 1638–1647*, ed. by William Haller, Vol. I, Appendix B.

[2] *Works*, ed. by F. A. Patterson, Vol. IV, pp. 347 f.

the execution of Charles, especially against the Presbyterians, who had begun to repent the lengths to which the Revolution had gone. This was followed in 1649 by the *Eikonoklastes* and in 1651 by the *Defensio pro populo Anglicano*, written in reply to Salmasius of Leyden, who had been employed by the royalists to write a defence of the king. These works contain an outspoken defence of the death penalty for a tyrannous king, proved from natural law, from Scripture, and from the law of England. He presented his case so powerfully that the *Defensio* was compared with Cromwell's army as a bulwark of the Commonwealth. No writer was better qualified to express the enthusiastic idealism of the Revolution:

> And here I cannot but congratulate myself upon our ancestors, who founded this state with no less prudence and liberty than did the most excellent of the ancient Romans or Grecians; and they likewise, if they have any knowledge of our affairs, cannot but congratulate themselves upon their posterity, who, when almost reduced to slavery, yet with such wisdom and courage reclaimed that state, so wisely founded upon so much liberty, from a king's outrageous despotism.[1]

Milton's argument in substance does nothing more than assert the ancient principle that resistance to a tyrant is a natural right. In the *Tenure* he argued that men are born free and set up governments for the sake of mutual defence. Public authority takes the place of each man's right to protect himself, and the law is set up to limit and control public authority. The magistrate's power is derived from the people for the public good, and hence the right to protect the common good against a tyrant must always reside in the people.

> The power of kings and magistrates is nothing else, but what is only derivative, transferred and committed to them in trust from the people, to the common good of them all, in whom the power yet remains fundamentally, and cannot be taken from them, without a violation of their natural birthright.[2]

The king has no indefeasible right but may be deposed as often as the people see fit. It is perfectly lawful to kill a tyrant, whether a usurper or a legitimate ruler. The argument is supported by the usual citations to the Protestant reformers, especially Knox and Buchanan.

In respect to the religious question Milton's views were those of the most advanced Independents.[3] Constraint in matters of belief and the support of the clergy from public revenues he regarded as the chief causes of religious corruption. He not only accepted the Protestant principle that Scripture is the rule of faith but he gave it the broadest interpretation: every man must interpret Scripture for himself. No

[1] *Defensio prima*, ch. viii, English transl. by Wolff; *Works*, Vol. VII, p. 451.
[2] *Works*, Vol. V, p. 10.
[3] *A Treatise of Civil Power in Ecclesiastical Causes* and *Considerations touching the Likeliest Means to Remove Hirelings out of the Church*, both published in 1659.

man can know that he is perfectly right, and hence neither a magistrate nor a church should enforce belief in a particular interpretation. Individual conscience is the court of last resort and no sincere believer is a heretic. The church is concerned only with the spiritual man, who cannot be enlightened by force, while the state is concerned only with outward acts. The two institutions are distinct in nature and purpose and therefore ought to be severed. Nothing but corruption follows if the clergy look to government for their support and not to the voluntary contributions of those who profit by their teaching. Church and state are therefore two distinct societies, with no community of membership or purpose. Such a separation, operating equally in both directions was quite different both in theory and practice from that for which Hooker had criticized Presbyterians and Catholics. Milton's conclusion was practically the same as that to which Independency had brought Roger Williams some twenty years before in his controversy with the theocracy in Massachusetts. On the eve of the Restoration it was far from realizable in England.

Behind Milton's republicanism lay a vague Platonic principle that the real justification of authority is moral and intellectual superiority. "Nature appoints that wise men should govern fools." Hereditary power is therefore unnatural. In his last political pamphlet, *The Ready and Easy Way to establish a Free Commonwealth*, published in 1660 immediately before the Restoration, he even expressed a doubt whether Jesus himself had not put "the brand of Gentilism upon kingship." This tract was a last despairing cry against monarchy, written when Milton must have known that the Restoration was inevitable. In it he faces the wreck of all the noble aspirations for which he had believed the Revolution stood.

> That a nation should be so valorous and courageous to win their liberty in the field, and when they have won it, should be so heartless and unwise in their counsels, as not to know how to use it, value it, what to do with it, or with themselves; but after ten or twelve years prosperous war and contestation with tyranny, basely and besottedly to run their necks again into the yoke which they have broken . . . will be an ignominy if it befall us, that never yet befell any nation possessed of their liberty.[1]

Yet nothing illustrates so well as this pamphlet—Milton's chief effort in constructive politics—the failure of his ideals to articulate with reality. His "ready and easy way" was in fact a fantastic impossibility. All he had to propose was that the people should lay aside their prejudices and selfish interests and elect the 'best men' of the nation to a perpetual council in which the members shall hold office for life. The pamphlet is a curious mixture of doctrinaire faith in the 'best men' and of distrust for the electorate which must choose any council, permanent or periodic. Milton merely assumed that the one election

[1] *Works*, ed. by Mitford, Vol. V, p. 431.

which he desired would work well but that all others, which he did not desire, would work badly. With a real passion for individual liberty he united contempt for the intelligence and good will of men in the mass. A native fastidiousness of mind made him instinctively an aristocrat, and he despised parliaments as much as he despised kings. He wholly failed to see that individual liberty is an impracticable ideal if men are unfit to be trusted with a voice in government. Like all who idealize the early stages of a revolution as a new birth of civilization, he was ill prepared to face the realities of its last stage.

FILMER AND SIDNEY

Algernon Sidney's republicanism was in all important respects like that of Milton. With the Restoration in 1660 the active discussion of politics in England died down, after producing in the preceding two decades two great classics, the *Leviathan* of Hobbes and the *Oceana* of Harrington, besides a host of controversial tracts covering every phase of political philosophy and constitutional theory. It was not until the approaching death of Charles II made imminent a Catholic succession that the old issue of hereditary right against the right of parliament reappeared. James's hereditary claim was sound and quite in accord with royalist principles, but his succession without proper safeguards for Protestantism filled most Englishmen with apprehension. When the issue began to be apparent, the royalists put forward the strangely antiquated figure of Sir Robert Filmer, who had died in 1653 after writing a number of royalist pamphlets almost unnoticed at the time. A volume of these was reprinted in 1679, and the next year his best-known work, *Patriarcha or the Natural Power of Kings*, was printed for the first time. This work has enjoyed a posthumous fame because it was refuted in detail by Sidney and Locke. Sidney's *Discourses Concerning Government* was written between 1680 and 1683 but was not published until 1698, a belated act of piety like parliament's repeal of his attainder in 1689. Sidney was executed in 1683 for complicity in the Rye House Plot, his papers, including the *Discourses*, being used against him. The indictment cited sentences saying that the king is subject to law, is responsible to the people, and may be deposed, as a "false, seditious, and traitorous libel."

Certainly nothing in Filmer's *Patriarcha* was so significant as the fact that it was first published in 1680. That the case for indefeasible hereditary right had to be presented in a book that had lain forgotten in manuscript for nearly thirty years, and a book so easily made to appear absurd, shows how little vitality the issue had. In truth Filmer's book was an anachronism even when it was written. It was a polemic against the two enemies of royal power, the Jesuits and the Calvinists, by whom "Monarchy hath been crucified between two

thieves, the pope and the people," and it attempted to restate the two royalist principles, divine right and the duty of passive obedience. But Filmer adopted the dangerous tactics of carrying the war into the enemy's country. Instead of relying on Scriptural authority, he tried to prove that the king's power is 'natural,' and to do this he derived it from the natural authority of parents. In short, Adam was the first king and "present kings are, or are to be reputed, next heir to him." The feebleness of this "are to be reputed" was lost on none of Filmer's critics. Since there can be by primogeniture only one present heir to Adam and since no one knows who he is, the conclusion ought to be that every king's power is unlawful. The tiresome persistence with which Sidney and Locke follow this obvious argument merely shows that an absurd conclusion is a godsend which no controversialist has the heart to overlook.

It is mere justice to Filmer, however, to say that, had he not been whipping a dead horse, his critics would not have had all the advantage on their side. They were committed to the theory that political power resides in 'the people' and that governments arise only by their consent. Filmer easily showed that these statements, if supposed to be literally true, are as absurd as any ever uttered. For who are the people? If they are the whole population, when did they enter into a contract and how can they consent to anything? And if consent be taken literally, how can there be any limits to faction? In these arguments, curiously enough, Filmer borrowed a good deal from Hobbes whom he esteemed highly. The people, he insisted, are a "headless multitude," so many units of population, while conceptions like representation, election, and majority-rule are meaningless except in a legal community. To form a community there must be a sovereign. Had Filmer not discredited himself with his absurd argument about the royal power of Adam, he might have been a rather formidable critic. He had quite as good a grasp of English constitutional history as Sidney or Locke,[1] and like most men who are known only by what their critics say of them, he was by no means so foolish as he has been made to appear.

Apparently Sidney never intended to publish the *Discourses*, and despite the esteem in which it was later held, for example by Thomas Jefferson, it is not in fact an effective book. It follows Filmer, expanding every objection into a short discourse until all sense of direction is lost. It might have made an effective pamphlet of a tenth its size. There is not an original idea in it. The argument against Filmer merely recited the familiar propositions: all peoples have a natural right to govern themselves; they can choose their rulers as they see fit; government derives its power from the people; it exists for their safety and wellbeing and may be held accountable for these ends. In England, Sidney held, "Parliament and people have the power of

[1] See his *Freeholders Grand Inquest touching Our Sovereign Lord the King and his Parliament.*

making kings," but he also believed that the power of parliament is delegated and may be revoked in some unspecified way.

According to Bishop Burnet, Sidney was "stiff to all republican principles," and presumably he was so in the days of the Commonwealth, but there is nothing in the *Discourses* really incompatible with constitutional monarchy. Certainly he believed that elected representatives were less likely to be corrupt than the favourites of a prince. Like Milton, whom he greatly resembled, he admired the aristocratic republic and imagined that election is a way of selecting the 'best men' to govern. Like Milton also he idealized the Commonwealth and looked back to it as an age of noble achievement in which for a moment English liberty reached a height equal to the great days of Greece and Rome. Perhaps in 1680, after twenty years of the Stuart Restoration, Sidney had an excuse which Milton lacked in 1660 for seeing Cromwell's thinly veiled dictatorship through a rosy mist. He was most effective when he loosed his righteous indignation on the systematized bribery and disreputable intrigues which, as a republican, he believed the monarchy had brought from France "since His Majesty's happy restoration." Let men examine, he says,

> whether bawds, whores, thieves, buffoons, parasites, and such vile wretches as are naturally mercenary, have not more power at Whitehall, Versailles, the Vatican, and the Escurial, than in Venice, Amsterdam, and Switzerland: whether Hide, Arlington, Danby, their graces of Cleveland and Portsmouth, Sunderland, Jenkins, or Chiffinch, could probably have attained such power as they have had amongst us, if it had been disposed of by the suffrages of the parliament and people.[1]

The importance of English republicanism in the seventeenth century is not easy to sum up. On one side it was hopelessly doctrinaire, since the abolition of the monarchy was never a real issue, was temporarily forced only by circumstances, and by its association with Cromwell's dictatorship was soon discredited. In Milton and Sidney it reflected mainly a mood of enthusiastic idealism but without the rugged force possessed by the abstractedly similar philosophy of the Levellers. Republicanism in the seventeenth century was essentially an aristocratic doctrine and not at all a general proclamation of the rights of man such as the political programme of the Levellers suggested. For Milton and Sidney 'the people' was still a community led by a natural élite, not at all a mass of equal individuals endowed with innate rights. It is true that the actual settlement of the Revolution, by placing the country gentry in a position of power, was far more aristocratic than democratic, but this settlement was in no way related to republicanism. The gentry made their peace easily enough with the monarchy after the latter became dependent on parliament. For this reason republicanism as such was never a live issue. Harrington's economic analysis

[1] *Discourses*, ed. by J. Toland (1763), p. 205.

was not doctrinaire but it had no close logical relation to his republicanism. Had he not happened to write during the Commonwealth, he could easily have adapted it to a constitutional monarchy.

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CHAPTER XXVI

HALIFAX AND LOCKE

THE final act in the drama of English politics in the seventeenth century came with climactic suddenness in the bloodless Revolution of 1688. The ill-judged efforts of James II to foster catholicism touched Protestant opinion in England as the stupidities and degradation of Restoration government had not, for this question was settled. The bulk of Englishmen were unchangeably Protestant and after a brief experience with James were ready to decide that Protestant supremacy was essential. The speed and ease with which the 'Glorious Revolution' was accomplished, though helped along by the incomparable fatuity of James, showed that more than Protestantism was settled. It laid the ghost of republicanism, if indeed that ghost was still able to walk, for no one worth mentioning wished to try again the sad experiment of the Commonwealth. England was to be a monarchy, but a monarchy controlled by parliament upon lines fixed by the results of the civil wars. After the settlement of the succession in William and Mary there could never again be a doubt that the crown was in the keeping of parliament, if it chose to exert itself. English government thus settled into the form which it kept for upwards of a hundred years, and without the reforms of representation which seemed inevitable in 1650. It was, indeed, a crass form of class-government, which in the course of the eighteenth century developed some of the worst abuses of class-government, but still it was after its fashion representative, and in comparison with any other European government it might be called liberal. The principles of this settlement were summed up by the two most enlightened Englishmen of their generation, the statesman George Savile, First Marquis of Halifax, and the philosopher John Locke.

Though the threat of a Catholic dynasty probably occasioned the Revolution, the settlement closed a chapter in the relations of religion and politics. Never again would the two be united as they had been since the Protestant Reformation. The Toleration Act was the only practicable basis for permanent peace between the churches, and though the Test Act survived to become a curiosity of English legislation, the injustice to Catholics and Dissenters was far different from persecution. Nothing is clearer in the political thought of Halifax and Locke than the recession of doctrinal and ecclesiastical questions from the position of dominant interest which they had held. Locke

as a young man had hoped for a policy of 'comprehension' in the English church itself, and when this hope was defeated he turned to a theory of almost universal toleration and of practical separation between church and state. Something not too remote from this was achieved in England by the Revolution, and more and more it became the accepted solution everywhere of this ancient problem. The whole intellectual temper of both Locke and Halifax was secular to a degree that would have been practically impossible fifty years before. The contrast even with Hobbes was striking. Though he had been perhaps as nearly non-religious as any man that ever lived, he had devoted half of *Leviathan* to the problem of *imperium* and *sacerdotium*. Locke, whose personal life was a distillation of the best qualities of Puritanism, was able to pass the whole question over except as it affected his argument for toleration. Both Halifax and Locke belonged in this respect to the eighteenth rather than the seventeenth century: they could meet theological dispute with the deadliest weapon, indifference. Personally religious and ethically Christian, Locke was profoundly reasonable and anti-dogmatic.

The same qualities of mind are discernible in the political theories of both Halifax and Locke. In both, common sense counts for more than logic. Both were cautious and willing to remain conservative where circumstances permitted. Both were in a marked degree pragmatic and compromising, not inclined to argue overmuch with what they took to be accomplished fact but inclined rather to accept and make the best of it. Halifax perhaps came nearer than any man in the seventeenth century to making this frame of mind a working political hypothesis. No man had a greater distrust of large generalizations or a prettier wit for pricking bubbles. With characteristic irony and perhaps with a shade of gentlemanly indifference to careful thinking, he let himself off the hard task of making a positive theory; he was enlightened and penetrating in the highest degree, but he was essentially an empiric and a sceptic. To a philosopher like Locke this easy-going distrust of generalization was not possible. He too was an empiricist but with a large residue of philosophic rationalism and a firm belief in self-evident principles of right and wrong. Unfortunately common sense is a poor organ for synthetizing really opposed philosophical positions. The result in Locke was a series of compromises which always left the first principles unclear. It is true that his compromises satisfied nearly every one for upwards of a half century and that by common sense he grasped firmly the fundamental ethical ideal of the English settlement, that of individual rights. Yet his compromises went far to conceal the insufficiencies both of the ideal itself and of its realization in eighteenth-century England. As a consequence later political thought was related to Locke in a highly complex fashion.

HALIFAX

What chiefly impressed Halifax's[1] inquiring and sceptical mind is the fact that there are few, if any, general principles that hold good of government. It is, as he says, a "coarse thing," made up mostly of expedients and compromises, with hardly a proposition in it that is "not deceitful." A loud profession of principles is usually a pretence to cloak the pursuit of private or partisan advantage. What men choose to call "fundamental," he says, is

> a nail everybody would use to fix that which is good for them; for all men would have that principle to be immovable that serves their use at the time.[2]
>
> Fundamental is a word used by the laity, as the word sacred is by the clergy, to fix everything to themselves they have a mind to keep, that nobody else may touch it.[3]

Nothing is more certain than that every human institution will change and the so-called fundamentals of government with them. The divine right of kings, the indefeasible rights of property or persons, and laws which may not be repealed or modified are all attempts to bind the future; they neither can nor ought to be effective. Laws and constitutions, he says, are made not once but a hundred times. In themselves they can do little, and in the end they mean just what those who interpret and administer and enforce them intend them to mean. The common law, he says, with evident reference to Coke, "hovers in the clouds," except as it is set in motion by a court or an executive, and then it becomes whatever the execution of the court's judgment makes of it. In the last resort law and government depend upon the intelligence and goodwill of the persons who conduct them. Abstractions count for something, but concrete interests and forces for much. Government as Halifax envisaged it was mainly the business of a ruling class, but of an intelligent and public-spirited class. Its chief virtue is to be a practicable compromise between power and liberty, capable of expanding to meet an emergency, adaptable to changing circumstances, strong enough to keep the peace but liberal enough to avoid repression.

Despite this emphasis on the personnel of government, Halifax had too much experience of affairs to imagine that a government could do as it liked. Behind the government is the nation, and nations make governments, not contrariwise. A people who loses its king is still a people, but a king who loses his people is no longer a king.

[1] Halifax's works have been edited by Walter Raleigh (Oxford, 1912); they are printed also in H. C. Foxcroft's *Life and Letters of Sir George Savile, Bart., First Marquis of Halifax*, 2 vols. (London, 1898). His most important essays are "The Character of a Trimmer," written in 1684 and first printed in 1688; "A Rough Draught of a New Model at Sea," published in 1694 from an essay first written much earlier; and "The Anatomy of an Equivalent" (1688). All were occasional pieces.

[2] Foxcroft, Vol. II, p. 492.

[3] *Ibid.*, p. 497.

There is in every nation a supreme power that alters the constitution as often as the good of the people requires. Some such principle of national life and self-preservation—which Halifax frankly admits he cannot define or forecast—is the nearest thing to a fundamental known to politics.

> There is a natural reason of state, an undefinable thing, grounded upon the common good of mankind, which is immortal, and in all changes and revolutions, still preserveth its original right of saving a nation, when the letter of the law perhaps would destroy it.[1]

This inherent power of self-development in a people will not and ought not to be curbed. The real power of a government depends upon its responsiveness to this internal drive. Without it neither constitutions nor force can long prevail. In this very general sense all government depends upon consent. A representative body is the best practicable device for giving voice to a nation's aspirations, but Halifax clearly regarded it as only a device. For practical purposes there must be room also for an indefinable power of leadership, a kind of omnipotence for great occasions, by which "a nation may at some critical times be secured from ruin."

It is upon this basis of expediency and national history that Halifax constructed his estimate of the crisis in England. Abstractly, he says in his *New Model at Sea* there are three possibilities. One would be absolute monarchy—he was thinking of France—which, he admits, has some advantages in unity and speed of execution. But it destroys the "competent state of freedom" in which men ought to live, and in any event it is impossible in England both because of the national tradition and because England's greatness must lie in trade, which is "the creature of liberty." A second possibility, which might be theoretically preferable to monarchy, would be a commonwealth, but the invincible objection is that Englishmen do not like it. Monarchy is perhaps a thing of 'bells and tinsel,' but the fact remains that England's one experiment with a commonwealth ended in military dictatorship. The one remaining and the only real possibility, therefore, is a "mixed monarchy," a constitutional government divided between king and parliament. Halifax was well content with the choice, for such government, he thought, gives the best compromise between power and liberty. It is a mean between absolute monarchy and commonwealth:

> We take from one the too great power of doing hurt, and yet leave enough to govern and protect us; we take from the other the confusion, the parity, the animosities, and the license, and yet reserve a due care of such a liberty, as may consist with men's allegiance.[2]

Parliaments may be troublesome but they give great strength to a wise administration.

In two respects, however, Halifax failed to understand the machinery

[1] *Trimmer* (ed. by Raleigh), p. 60. [2] *Ibid.*, p. 54.

of the new government. He did not see that ministers must become dependent on parliament and responsible to it, instead of being the personal choice of the monarch. Probably no one could have seen this until the course of parliamentary history made it plain, and Halifax died before the evidence was fairly in. Very naturally, therefore, he failed to see also that political parties had become an inherent part of parliamentary government. His judgment of parties was markedly hostile, an attitude due in part to his experience with the disreputable cabals of the Restoration and the intransigent factions of the revolutionary period, but also to a fastidiousness of temper that made it hard for him to co-operate when he could not control. A party he judged to be at the best a kind of conspiracy against the rest of the nation, and party-discipline he felt to be incompatible with liberty of private opinion. This low estimate of political parties was typical until the publication of Burke's *Present Discontents* in 1770.

Halifax's political acumen surpassed that of every other English statesman of his age. Probably most historians would now agree with Macaulay's assertion that "through frequent and violent revolutions of public feeling, he almost invariably took that view of the great questions of his time which history has finally adopted." He had, to be sure, almost no political theory; almost he said that no political theory was possible. Certainly none was possible for him in terms of the absolute rights and obligations—the strong blacks and whites with no greys—that the seventeenth century characteristically loved. In this qualifying temper, this willingness to compromise, this readiness to judge in terms of expedience, lay the note of the eighteenth century. His onslaught on 'fundamentals,' side by side with Locke's attack on innate ideas, was the antecedent to Hume's empirical criticism of the theory of natural rights. His emphasis upon expedience as an ever-present factor in political adjustment was introductory to ethical and political utilitarianism, which was the only live social philosophy in England throughout most of the eighteenth century and which attained its mature influence only in the philosophical radicalism of Bentham and the Mills. Thus Halifax, though he would not have been flattered by being called a philosopher, displayed an intellectual temper which became an integral part of philosophy.

LOCKE: THE INDIVIDUAL AND THE COMMUNITY

The political philosophy of John Locke wore the guise of an occasional performance. It was contained in two essays published in 1690 with the avowed purpose of defending the Revolution,[1] and of these

[1] *Two Treatises of Government.* His *Letter concerning Toleration* was published in 1689, the *Second Letter* in 1690, and the *Third Letter* in 1692. But Locke had written (not published) on toleration as early as 1667; see H. R. Fox Bourne's *Life of John Locke*, Vol. I, p. 174.

essays the first, which was devoted to the refutation of Filmer, had no permanent importance. In fact, however, the second treatise was far from being merely a tract for the times; it reached back into the past, right across the whole period of the civil wars, and joined hands with Hooker's *Ecclesiastical Polity*, which had summed up the political thought of England at the close of the Reformation and before the break between parliament and the king. Through Hooker Locke was joined with the long tradition of medieval political thought, back to St Thomas, in which the reality of moral restraints on power, the responsibility of rulers to the communities which they ruled, and the subordination of government to law were axiomatic. It was not that Locke was in any sense an antiquarian. The chief mark of his genius was neither learning nor logic but an incomparable common sense by which he gathered together the chief convictions, in philosophy, politics, morals, and education, that the experience of the past had generated in the more enlightened minds of his generation. By giving to these a simple and sober yet persuasive statement, he passed them on to the eighteenth century, where they became the matrix from which grew the later political philosophy both of England and the Continent. The medieval tradition, which Locke tapped through Hooker, was an indispensable part of the constitutional ideas of the Revolution of 1688. The years of the civil wars had changed but had not destroyed it. Locke's problem, therefore, was not to reproduce historically the thought of Hooker but to gather together anew the abiding elements of that thought and to restate them in the light of what had happened in the intervening century.

Of all the figures in this intervening century incomparably the most important for the development of a consistent political theory had been Thomas Hobbes. Hobbes, with his clear-cut proof of the logical necessity of political absolutism, was the opponent whom Locke must refute if he was to set up an equally clear theory of constitutional government, and in fact the second treatise *Of Civil Government* was meant to refute Hobbes upon lines suggested by Hooker. It is most unfortunate that Locke did not assume the full obligation thus laid upon him. Had he done so, he would have been compelled to go much deeper into the principles of society and government than he ever did, and this would have tended to save him from the confusions which abound below the surface of his superficially simple theory. For the sake of the immediate effect it was more advantageous to flog poor Filmer, who had the merit of being absurd and of appearing more absurd than he was. Locke quite failed to discriminate Filmer's absurdities from his solid arguments, which for the most part were derived from Hobbes. The greatest weakness of Locke's philosophy in all its branches was that he never got back to first principles. His common sense saved him perhaps from many dialectical quibbles,

but in the end it meant that he took much for granted on inadequate analysis and combined propositions that analysis showed to be incompatible.

So far as concerns his political philosophy, the gist of the issue may be stated as follows. The medieval tradition that reached Locke through Hooker, and the constitutional ideals followed in the settlement of 1688, held that government—the king specifically but not less parliament itself and every political agency—is responsible to the people or the community which it governs; its power is limited both by moral law and by the constitutional traditions and conventions inherent in the history of the realm. Government is indispensable and its right is therefore in a sense indefeasible, but it is also derivative in the sense that it exists for the well-being of the nation. This argument clearly presumes the corporate or social reality of the community, not a difficult assumption in an age when society was regulated by custom and in any event a settled principle of the medieval Aristotelianism which inspired Hooker. The main result of Hobbes's analysis, however, had been to show that a community as such is a pure fiction, that it has no existence except in the co-operation of its members, that this co-operation is always due to advantages enjoyed by its members individually, and that it becomes a community only because some individual is able to exercise sovereign power. Upon this analysis Hobbes had based his conclusion that subjection is unavoidable in any form of government, and that ideas such as contract, representation, and responsibility are meaningless unless backed by a sovereign's power. Hence they are valid within the state but not for the state.

The logical opposition between these two points of view is extreme. The first is stated in terms of functions. It conceives both individuals and institutions as doing a socially valuable work, regulated by government for the good of all, and within the framework of the law which makes the group a community. The second is stated in terms of individual self-satisfaction. It conceives society as composed of persons actuated by selfish motives, looking to law and government for security against their equally selfish fellows, and seeking the largest amount of private good consistent with keeping the peace. If Locke could have adopted either point of view and rejected the other, he would have been more consistent than he was. The circumstances under which he wrote required him to adopt both, and this ought to have entailed an examination of principles and a synthesis of the highest order. It was, in fact, a task that exceeded Locke's powers. His defence of the Revolution was practically upon the lines marked out by Hooker and already adopted in substance by Halifax. It assumes that the English people forms a social group persisting continuously through the changes of government required by its political evolution and setting moral standards which its rulers must respect.

On the other hand, there were urgent reasons why Locke had to adopt into his social philosophy a large part of Hobbes's premises. With or without Hobbes's systematically egoistic psychology a theory of society in terms of individual interests was in Locke's day a foregone conclusion. The whole drift of the theory of natural law was in this direction, and to this tendency Locke made no small contribution. For he interpreted natural law as a claim to innate, indefeasible rights inherent in each individual. Of such rights that of private property is the typical case. Consequently his theory was by implication as egoistic as that of Hobbes. Both government and society exist to preserve the individual's rights, and the indefeasibility of such rights is a limitation on the authority of both. In one part of Locke's theory, therefore, the individual and his rights figure as ultimate principles; in another society itself plays this part. There is nothing which adequately explains how both can be absolute.

The portion of Hobbes's political theory which Locke selected for explicit attack was the description of the state of nature as a war of every man against every man. He held on the contrary that the state of nature is one of "peace, goodwill, mutual assistance and preservation." This is defended on the ground that the law of nature provides a complete equipment of human rights and duties. The defect of the state of nature lies merely in the fact that it has no organization, such as magistrates, written law, and fixed penalties, to give effect to the rules of right. Everything that is ever right or wrong is so eternally; positive law adds nothing to the ethical quality of different kinds of conduct but merely provides an apparatus for effective enforcement. In the state of nature every man must protect his own as best he can, but his right to his own and his duty to respect what is another's are as complete as ever they can become under government. It will be noted that this is exactly the ground that Thomas had taken centuries before Locke. Locke was merely repeating Hooker and through him the medieval tradition about the relation between law and morals. If the fiction about a state of nature be laid aside, this can mean only one thing, namely, that moral rules are broader in their application than the rules of positive law and are valid whether governments observe them or not. Just what gives morality its force remains a question. It might depend upon divine will, or it might be rationally self-evident, or it might depend on the fact that society is more deeply ingrained in human nature than government and so sets standards that governments cannot defy. Against Hobbes, however, Locke set up the proposition that moral rights and duties are intrinsic, that

morality makes law and not law morality, and that governments have to give effect to what is naturally right prior to its enactment.

It is evident, then, that Locke's whole theory depended upon explaining exactly what was meant by the law of nature upon which his pre-political condition of mutual assistance rested and in accordance with which political society arose. At least it was incumbent on him to show why it was binding even without administration or enforcement. In fact, he never gave any careful analysis of it at all, his most explicit treatment of it being merely incidental to his discrimination—following Aristotle and directed against Filmer—of paternal from political power. Because it was traditional to discuss property in connection with the family, this had the effect of uniting his treatment of natural law with his theory of the origin of private property. Before discussing the general question of the validity which Locke attributed to natural law, therefore, it will be better to present his theory of the right to private property, for he constantly assumes that this is the type to which all natural rights are analogous.

In the state of nature, Locke believed, property was common in the sense that every one had a right to draw subsistence from whatever nature offers. Here again he was bringing ideas from a far-distant past. In the Middle Ages it had been not uncommon to suppose that common ownership is a more perfect and, hence, a more 'natural' state than private ownership, the latter being attributed to the effects of sin upon human nature after the fall of man. In the Roman law also, there existed the very different theory that private property begins with the appropriation of things which before had a common use though no communal ownership. Locke departed from both theories by asserting that a man has a natural right to that with which he has 'mixed' the labour of his body, as for example by enclosing and tilling land. Apparently he was generalizing from the example of colonists in a new land like America, but it is probable that he was influenced also by a strong sense of the superior productivity of private agricultural economy as compared with the communal tillage of a more primitive system. Locke believed that greater production would raise the standard of living throughout the community. In the eighteenth century the enclosure of land did, in fact, increase the yield, but the capitalist landlord took advantage of his strategic position to sequestrate the benefits. Whatever the origin of Locke's theory may have been, his argument was that the right to private property arises because by labour a man extends, so to speak, his own personality into the objects produced. By expending his internal energy upon them he makes them a part of himself. In general their utility depends upon the labour expended upon them, and thus Locke's theory led to the later labour-theories of value in classical and socialist economics.

From Locke's theory of the origin of private property it follows that

the right is prior even to the primitive society which he described as the state of nature. As he himself said, property is "without any express compact of all the commoners."[1] It is a right which each individual brings to society in his own person, just as he brings the physical energy of his body. Hence society does not create the right and, except within limits, cannot justly regulate it, for both society and government exist, in part at least, to protect the prior private right of property. This account of property, though introduced almost casually, had a profound effect on Locke's whole social philosophy. He never said, and almost certainly did not believe, that there was no natural right except property. The expression which he most commonly used to enumerate natural rights was "life, liberty, and estate." Frequently, however, he used 'property' where he seems to have meant any right, and since property was the only natural right which he examined at length, it was inevitable that it should stand out as the typical and important right. In any case, he conceived all natural rights on the same lines as property, that is to say, as attributes of the individual person born with him, and hence as indefeasible claims upon both society and government. Such claims can never justly be set aside, since society itself exists to protect them; they can be regulated only to the extent that is necessary to give them effective protection. In other words, the "life, liberty, and estate" of one person can be limited only to make effective the equally valid claims of another person to the same rights.

PHILOSOPHICAL AMBIGUITIES

This theory, in all its social and political implications, was as egoistic as that of Hobbes. It is true that Locke drew a different picture of the state of nature. The war of all against all no doubt seemed to his common sense to be overdrawn, but like Hobbes he was saying in substance that society exists to protect property and other private rights which society does not create. As a result the psychology which in the eighteenth century grew out of Locke's theory of mind was fundamentally egoistic in its explanation of human behaviour. It ran in terms of pleasure and pain, and not like Hobbes's in terms of self-preservation—a doubtful improvement—but the calculation of pleasure was exactly as self-centred as the calculation of security. Hobbes's better logic had its way in spite of Locke's better feeling. By a strange and undesigned co-operation the two men fastened on social theory the presumption that individual self-interest is clear and compelling, while a public or a social interest is thin and unsubstantial. Perhaps the influence of Locke, precisely because it was less aware of its principles, was the more insidious. He left standing the old theory of natural law with all its emotional connotations and almost religious

[1] *Of Civil Government*, Book II, sect. 25.

compulsions, but he completely changed, without knowing it, the meaning which the term had in writers like Hooker. Instead of a law enjoining the common good of a society, Locke set up a body of innate, indefeasible, individual rights which limit the competence of the community and stand as bars to prevent interference with the liberty and property of private persons. Like later liberals he assumed that the two things—preservation of the common good and protection of private rights—come to the same thing. In the existing state of politics and industry perhaps this was measurably true, but there was no logical ground for it except the vague assumption that in the harmony of nature "somehow good will be the final goal of ill." This sentimental trust in nature, quite unwarranted by anything that modern science or modern philosophy knew about it, ran right across the history of political and economic theory in the eighteenth century.

It is exceedingly difficult to understand exactly what Locke believed to be the philosophical justification for his theory of natural rights, or, in other words, to see how he meant to unite his political theory with his general philosophical position. That all individuals are endowed by their creator with a right to life, liberty, and estate, aside from all reference to their social and political associations, is certainly not a proposition for which any empirical proof can be given. There seems to be no way whatever to prove it; it must stand, as Thomas Jefferson said, simply as self-evident, an axiom from which social and moral theorems can be deduced but which in itself is more obvious than any other ethical principle. Probably this is what Locke believed. The tendency to regard natural law in moral and legal science as analogous to axioms in geometry was well settled in seventeenth-century thought after Grotius. But even if some moral values are admitted to be self-evident, it is far from obvious that they must take the form of innate individual rights. Probably Locke never really faced this question, since he seems not to have been aware how greatly his own theory of natural rights differed from the older versions of the theory.

If this latter question be put aside, however, it is still hard to see how Locke's philosophical position warranted him in believing that an apparently self-evident proposition, in ethics or any other subject, is for that reason true. The first book of the *Essay concerning Human Understanding* was devoted to showing that no idea is innate, that is, so fundamentally a part of the mind that belief in it is warranted apart from evidence. For practical purposes this is the same as saying that self-evidence is not reliable, since even a false proposition, because of custom or habit, may appear to be obvious. Undoubtedly Locke meant his attack on innate ideas to be a solvent for all kinds of prejudice, in morals and religion as well as in science. His own belief, that

ideas come from the senses, he regarded as affording a basis for knowledge quite different from the spurious test of innateness.

The truth is, however, that he never perceived how far this empiricism, logically developed, would carry him. His conception of knowledge was coloured by the prevailing reverence for mathematics, and after explaining the origin of ideas empirically he denied the certainty of practically all empirical knowledge, namely, the report of the senses about physical existences. In ethics particularly he retained the belief —by virtue of never trying to act on it—that a demonstrative science of morals analogous to geometry could be constructed. His political theory, or at least the ethical foundations of it, retained the impress of this belief. Thus Locke's philosophy as a whole presented the anomaly of a theory of the mind and a procedure in describing it which was generally empirical, joined to a theory of the sciences and a procedure in political science which was rationalist. The curious result in his social philosophy was a theory markedly tolerant and critical in defending religious freedom and capable of being highly dogmatic in defending rights of property.

In philosophy the weight of Locke's influence was on the side of empiricism, that is, on the side of a psychology in which human knowledge and behaviour are explained from the senses and in which the rules of conduct claim the validity of generalizations from experience. It was manifest that natural rights—indefeasible claims to liberty of action inherent in human beings whatever their social relationships or without social relationships—could not be verified in this way, nor could they pass unchallenged as axioms after his refutation of innate ideas. Thus it happened that his English successors in the first half of the eighteenth century (following suggestions in the *Essay*) rapidly developed a theory of behaviour in terms of pleasure and pain, the first operating as a force of attraction and the second as one of repulsion, and a theory of value in which the greatest net sum of pleasures, after deducting the pains as negative quantities, was set up as the socially valuable end of conduct. At first a mainly academic psychology allied to a theological ethics, this theory passed through a French medium into the hands of Bentham and the philosophical radicals. Logically, as Hume showed, it eliminated altogether Locke's natural rights and fictions about the state of nature and a contract. It remained egoistic, however, both in its psychological explanation of behaviour and in its theory of value—ethical, political, and economic —and merely assumed the coincidence of individual freedom with the greatest public good. The individualism of all social theory between Locke and John Stuart Mill depended less on logic than on its agreement with the interests of the class that mainly produced it.

THE CONTRACT

Having described the state of nature as a condition of peace and mutual aid, and having defined natural rights on the analogy of property, as prior even to society, Locke next proceeded to derive civil society from the consent of its members. This part of his theory suffered inevitably from the inherent contrariety of what he took from Hooker and what he took from Hobbes. Civil power he had defined as "the right of making laws with penalties . . . for the regulating and preserving of property, and of employing the force of the community, in the execution of such laws . . . all this only for the public good."[1] Such a power can arise only by consent, and though this may be tacitly given, it must be the consent of each individual for himself. For civil power can have no right except as this is derived from the individual right of each man to protect himself and his property. The legislative and executive power used by government to protect property is nothing except the natural power of each man resigned "into the hands of the community," or "resigned to the public," and it is justified merely because it is a better way of protecting natural rights than the self-help to which each man is naturally entitled. This is "the original compact" by which men "incorporate into one society"; it is a bare agreement "to unite into one political society, which is all the compact that is, or needs be, between the individuals, that enter into, or make up a commonwealth."[2]

The difficulty with this theory is that Locke is nowhere clear as to what precisely does arise by the "original compact." Is it society itself or only government? That the two are different he emphatically asserted at a later point in the second *Treatise*, where he argued that a political revolution which dissolves a government does not as a rule dissolve the community which that government rules. Moreover, the individual resigns his natural right to the community or the public, which presumably must be some kind of entity if it can receive a grant of power. On the other hand, right is lodged, necessarily according to Locke's theory, only in the hands of individuals until they resign it. Yet he regarded this surrender of individual right as conditional against both society and government, for individual power is resigned "only with an intention in every one the better to preserve himself his liberty and property," and society itself is "obliged to secure every one's property."[3] To clarify this problem those Continental writers, like Althusius and Pufendorf, who had elaborated the theory of compact most carefully, had postulated two contracts, the one between individuals giving rise to a community and the other between the community and its government. Some such position Locke tacitly assumes, though he nowhere states it. The twofold contract, of course, explains

[1] *Of Civil Government*, Book II, sect. 3. [2] *Ibid.*, sect. 99. [3] *Ibid.*, sect. 131.

nothing, since the propriety of using the same concept to cover the two cases is really the doubtful point, but it does give formal clarity to the theory. Formal clarity was not a quality which Locke greatly valued, and hence he contented himself with a conflation of two points of view. The older theory which he got from Hooker assumed a community capable of holding its magistrates morally responsible; this he mainly followed in his defence of the Revolution as a justifiable effort to make English government serve the needs of English society. The newer theory, most clearly stated by Hobbes, assumed only individuals and their private interests, and this also Locke followed in so far as he made both society and government agencies for protecting life, liberty, and estate.

The two phases of Locke's theory are united—very precariously, it must be admitted—by the hypothesis that an act of the community is constituted by the agreement of a majority of its members. The consent by which each person agrees with others to form a body politic obligates him to submit to the majority; as Pufendorf had argued, the fiction of a social contract must be helped out with the further fiction of unanimous consent. And the agreement of a majority is identical with an act of the whole society.

> That which acts any community, being only the consent of the individuals of it, and it being necessary to that which is one body to move one way; it is necessary the body should move that way whither the greater force carries it, which is the consent of the majority.[1]

This way of solving the difficulty, however, is open to objection from both sides. If an individual's rights are really indefeasible, it is no better for him to be deprived of them by a majority than by a single tyrant; apparently it did not occur to Locke that a majority could be tyrannous. Nor is there any good reason why an individualist should resign his private judgment merely because those who disagree with him are numerous. On the other hand, if the 'public' or the 'community' really has a unitary quality of its own, there is no *a priori* reason why its decision must always be made by a numerical majority. Older theories of popular sovereignty, such as Marsilio's, had commonly held that the 'prevailing part' of a community may be weighted for quality as well as for quantity. In general it cannot be said that the principle of majority-rule has any such obvious validity as Locke imputed to it.

SOCIETY AND GOVERNMENT

On the whole Locke regarded the setting up of a government as a much less important event than the original compact that makes a civil society. Once a majority has agreed to form a government,

[1] *Of Civil Government*, Book II, sect. 96.

"the whole power of the community is naturally in them." The form of the government depends upon what disposition the majority, or otherwise the community, makes of its power. It may be retained or it may be delegated to a legislative body of one form or another. Following the experience of the English Revolution, Locke assumed that the legislative power is supreme in government, though he admitted the possibility that the executive may share in lawmaking. Both powers, however, are limited. Legislative power can never be arbitrary, for even the people who set it up had no such power; it cannot rule by extemporary decrees, since men unite to have known law and judges; it cannot take property without consent, which Locke interprets to mean by majority-vote; and it cannot delegate its legislative power, since this is unalterably in the hands where the community has placed it. In general, its power is fiduciary, since the people have supreme power to alter the legislature when it acts contrary to the trust reposed in it. The executive is further limited by a general dependence on the legislature and also because the prerogative is limited by law. For the sake of freedom it is important that legislative and executive power should not be in the same hands. Every detail of Locke's account of the relation between legislatures and executives reflects some phase of the controversy between the king and parliament.

The power of the people over government, however, is still not quite as complete in Locke as it came to be in later and more democratic theories. Though he called the power of the legislature fiduciary and a delegation from the majority that acts for the community, he retained the older view that the grant of the community divests the people of power so long as the government is faithful to its duties. In this respect his theory was logically somewhat arbitrary, as Rousseau later pointed out. For if government is merely the trustee of the people, it is hard to see why the principal should have bound his hands by executing the trust. The people's legislative power is in effect limited to a single act (though Locke admits that a democracy is conceivable), namely, that of setting up a supreme legislature. Even if the community resumes its power for good cause, it cannot do so "till the government be dissolved." A democrat like Rousseau naturally considered this to be an unwarranted limitation on the perpetual power of the people to govern itself as it saw fit. Probably several causes united to fix Locke in his opinion. He was a cautious and sober-minded man, in no wise willing to encourage licence even though he had to defend a revolution. Besides, he rightly regarded democratic government, at least in England, as an academic question. More important than these reasons, probably, was the persistence in his mind of the tradition which he derived from Hooker and which had governed the thought of Coke and Sir Thomas Smith. The right of a community to govern itself had not been thought inconsistent with a kind of indefeasibility

in the right of its king and other governing organs, which after all had a status or a vested interest in their places. This phase of Locke's theory persisted in the Whig liberalism of the eighteenth century, which regarded government, while responsible for the common well-being, as a balance between the great interests of the realm, such as crown, nobility, church, and commonalty. With Edmund Burke this conception became a starting-point for the theory of modern conservatism. The English Revolution did not break violently the tradition of English government, and similarly Locke, its philosophical exponent, was the most conservative of revolutionists. Locke's ideas in France in the eighteenth century had quite a different history.

Since Locke's purpose was to defend the moral validity of the Revolution of 1688, he devoted the latter part of the second treatise to discussing the right to resist tyranny. The most effective part of this argument is that which he drew from the principles of Hooker. In substance it amounts to this: English society and English government are two different things. The second exists for the wellbeing of the first, and a government which seriously jeopardizes social interests is rightly changed. This argument is supported by a rather lengthy examination of the right which can be gained by conquest. Locke here distinguished between just and unjust warfare. A mere aggressor gains no right, and even a conqueror in a just war can never establish a right which contravenes the liberty and property of the conquered. The argument is evidently directed against Hobbes in particular and in general against any theory that governments derive a just power from the successful use of force. The principle of Locke's argument is essentially the same as that later developed by Rousseau, that moral validity and force are two distinct things, the latter being incapable of giving rise to the former. Consequently a government which begins in force can be justified, as all governments are justified, only by its recognition and support of the moral rights inherent in persons and communities. In other words, the moral order is permanent and self-perpetuating, and governments are only factors in the moral order. In this sense natural law meant for Locke substantially what it had meant for Cicero and Seneca and the whole of the Middle Ages.

A government, as distinct from a society, is dissolved either by a change in the location of legislative power or by a violation of the trust which the people have reposed in it. Locke contemplated two cases, both drawn from English experience in the preceding fifty years. He wished to show that the king had been the real author of the Revolution by attempting to stretch the prerogative and to rule without parliament; this was a dislocation of the supreme legislative power vested by the people in their representatives. He had also a retentive memory for the misbehaviour of the Long Parliament, and accordingly he had no thought of leaving the legislature unfettered. Any invasion of the

life, liberty, or property of subjects is *ipso facto* void, and a legislature which attempts these wrongs forfeits its power. In this case power reverts to the people, who must provide by a new act of constitutional legislation for a new legislature. As in all such arguments, Locke created a considerable, and perhaps needless, confusion by his use of the word 'lawful.' He continually speaks of unlawful acts of the executive or legislature when he well knows that there is no legal remedy, and of lawful resistance to tyranny when he means resort to an extra-legal but morally defensible remedy. Broadly speaking he used lawful as synonymous with just or right and made no distinction between what is morally just and what is legally actionable. This usage grew from and perpetuated the traditional belief that law—natural, positive, and moral—is all of a piece, and that there are therefore 'fundamental' laws not made even by the supreme legislature. The reality of such rules in English law disappeared with the very Revolution which Locke was defending, though the belief in moral limitations on parliament persisted. Perhaps the American practice of discriminating between constitutional and statutory law, and between ordinary legislation and extraordinary legislation by referendum, was closer to Locke's ideas.

THE COMPLEXITY OF LOCKE'S THEORY

Locke's political philosophy can hardly be represented in a simple and straightforward exposition because of the logical difficulties which it reveals when it is subjected to analysis. In spite of the simplicity which it seems on the surface to possess and which made it the most popular of political philosophies, it is in reality involved. This was due to the fact that Locke saw with great clarity a multitude of issues involved in the politics of the seventeenth century and tried conscientiously to combine them all. But his theory had no logical structure elaborate enough to contain so complicated a subject-matter. Though circumstances made him the defender of a revolution, he was by no means a radical, and in intellectual temperament he was the least doctrinaire of philosophers. Perhaps something is explained by the fact that his mature life fell in a generation when the results of civil war were accomplished but not acknowledged. His principles he mainly inherited and he never examined them very thoroughly. But he was extraordinarily sensitive to realities and absolutely candid in trying to face them. The mid-period of the seventeenth century had changed enormously both English politics and English thought, and yet it had not broken continuity with the days before the civil wars. Locke's political philosophy was an effort to combine past and present and also to find a nucleus of agreement for reasonable men of all parties, but he did not synthetize all that he combined. As he com-

bined diverse elements from the past, so from his political philosophy emerged diverse theories in the century following him.

The defects of logical structure in Locke's political theory arose from the fact that he never made up his mind what exactly was fundamental and what was derivative. There are, in fact, no less than four levels in his account of civil society, and the last three are represented as successively derivative from the first. Yet Locke never hesitated, if it was convenient, to impute a kind of absoluteness to each of the four. The foundation of the whole system was represented as being the individual and his rights, especially that of property. On the whole this must be regarded as the most significant phase of his political theory, which made it primarily a defence of individual liberty against political oppression. Second, men are also members of a community, and though Locke described society as depending on tacit consent and as meaning effectively a majority, he constantly spoke of the community as a definite unit and the trustee of the individual's rights. Third, beyond society there is government, which is trustee for the community, somewhat as the latter is for the individual. Finally, within government the executive is less important and less authoritative than the legislature. Yet Locke certainly did not regard the king and his ministers as merely a committee of parliament. In the defence of liberty and property the legislature controls the executive, and the community controls government. Only in the remote event that society itself is dissolved, a contingency which Locke never seriously contemplated, does the defence of liberty revert to self-help. Society, the legislature, and even the king were all treated as having a kind of vested right, or permanent authority, only to be forfeited for cause, though the individual rights of property and liberty were the only rights which Locke declared to be absolutely indefeasible. The plausibility of Locke's theory was greatly increased by not trying to show too precisely how the actual power of institutions is derived from the equal and inalienable rights of individuals.

The actual complexity of Locke's political thought, concealed beneath its apparent simplicity of statement, makes difficult an estimate of its relations to later theories. What was immediately grasped included its most obvious but also its least important consequences. The enormous vogue which he enjoyed during the earlier part of the eighteenth century was probably due precisely to the deceptive simplicity of his thought, which has always commended his philosophy to common sense. Such liberal thought as survived the success of the Revolution carried on the spirit of Locke's philosophy most truly in respect to religious toleration, which had real vitality in eighteenth-century England despite the political disqualification of Catholics and Dissenters by the continuation of the Test Act. The supremacy of parliament was no longer a controversial issue and party differences

about the power of the crown had little importance. With some lip-service to Locke, Whiggism in the eighteenth century represented quite subsidiary elements of his *Treatise*: that the powers of government remain indefeasibly in the organs where they have once been placed, unless one tries to invade the province of another, and that government is at bottom a balance of the vested interests of the realm: crown, landed aristocracy, and corporations.[1] In this almost nothing of Locke's theory of individual rights remained but much of what Ireton, in his dispute with the Levellers, had called the "permanent fixed interests" of the kingdom. This made it possible for the myth of a separation of powers to persist to the end of the century. As Blackstone said,

> Every branch of our civil polity supports and is supported, regulates and is regulated, by the rest: for the two houses naturally drawing in two directions of opposite interest, and the prerogative in another still different from them both, they mutually keep each other from exceeding their proper limits; while the whole is prevented from separation, and artificially connected together by the mixed nature of the crown, which is a part of the legislative, and the sole executive magistrate.[2]

The monopoly of power by the landowning class was contrary not only to Locke's theory of individual rights but also to his theory of the importance of property in general.

The greatest importance of Locke's philosophy, therefore, lay beyond the contemporary English settlement in the political thought of America and France which culminated in the great revolutions at the end of the eighteenth century. Here Locke's defence of resistance in the name of inalienable rights of personal liberty, consent, and freedom to acquire and enjoy property had their full effect. Because all these conceptions were in germ much older than Locke and had been the birthright of all European peoples since the sixteenth century, it is impossible to attribute their existence in America and in France to him alone, but he was known to every one who gave any attention to political philosophy. His sincerity, his profound moral conviction, his genuine belief in liberty, in human rights, and in the dignity of human nature, united with his moderation and good sense, made him the ideal spokesman of a middle-class revolution. As a force in propagating the ideals of liberal but not violent reform Locke probably stands before all other writers whatsoever. Even his more doubtful ideas, such as the separation of powers and the inevitable wisdom of majority-decisions, remained a part of the democratic creed.

In the course of the eighteenth century the system of natural law, which provided the logical basis for Locke's political philosophy, receded gradually from the dominating position which it held in the

[1] See the account of Whig principles in Burke's *Appeal from the New to the Old Whigs*.
[2] *Commentaries*, Bk. I, ch. ii, sect. 2.

scientific thought of the seventeenth century. This was due in part to a general progress of empirical method both in the natural sciences and in social studies, but in no small degree to the development of those parts of Locke's philosophy which stressed the importance of a natural history of human understanding. This development followed lines already suggested by Locke himself. It greatly expanded the psychological explanation of behaviour, making it depend upon the pursuit of pleasure and the avoidance of pain as its sole motives. In place of the rational standard of inherent good sought by the theory of natural law it put a utilitarian theory of moral, political, and economic value. About the middle of the century Hume showed that this development, if logically carried through, made it possible to dispense with the theory of natural law altogether. The internal structure of Locke's political philosophy was thus completely destroyed. Yet most of its practical purposes and much of its inward spirit passed over to utilitarianism. Though less explicitly a defence of revolution, it continued Locke's spirit of cautious but radical reform. Its programme continued the same idealization of individual rights, the same belief in liberalism as a panacea for political ills, the same tenderness for the rights of property, and the same conviction that public interests must be conceived in terms of private well-being.

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CHAPTER XXVII

FRANCE: THE DECADENCE OF NATURAL LAW

THE Revolution of 1688 and the publication of Locke's tracts brought to a close the astonishing half-century of creative political philosophy which accompanied the civil wars in England. There followed, as often happens, a period of quiescence or even of stagnation. The need of the moment was that the new government should consolidate its gains; until the middle of the eighteenth century a Stuart restoration, bringing a Roman Catholic succession under the influence of France, seemed a real threat. The temper of English thought became conservative, even complacent, and not without reason, for though English government was oligarchical and corrupt, in comparison with the rest of Europe it was liberal. At least it offered a large measure of civil liberty to all and political liberty to the classes which alone were politically self-conscious. The growth of a party-system and of ministerial responsibility was a matter of experiment and adjustment rather than of conscious theorizing. Not until David Hume in the middle of the century and Edmund Burke towards its close did British thinkers add materially to social philosophy, and the later years of Burke's thought were controlled by political events in France.

THE REVIVAL OF POLITICAL PHILOSOPHY IN FRANCE

In the eighteenth century, therefore, political theory had its centre in France. This fact was in itself a revolution, for though French philosophy in the age of Descartes had led the scientific emancipation of Europe, as French literature had led the arts, it had nothing to say on politics or social questions. Its domain had been rather in mathematics, metaphysics, and theology. There was little that social philosophy could say to an era of personal or bureaucratic autocracy such as began in France under Henry IV, developed in the age of Richelieu and Mazarin, and culminated in the monarchy of Louis XIV. The English civil wars, it is true, did not pass unnoticed at the time of the Fronde,[1] but such attention as they received served only to show that political ideas are powerless except as they respond to political occasions. The only response consonant with Louis's autocracy was

[1] The only writer of any consequence was Claude Joly; see J. B. Brissaud, *Un libéral au xviie siècle: Claude Joly* (1607–1700), Paris, 1898.

that of Bossuet: "The royal throne is not the throne of a man but of God himself."[1] In form it was the old theory of monarchical divine right; in substance, so far as it had any philosophical substance, it depended on Hobbes's argument that there can be no third position between absolutism and anarchy. The last thirty years of Louis's long reign, however, from about 1685 until his death in 1715, were years of increasing decadence. Louis, after a period of military glory that hypnotized France, committed the cardinal sin of failing. His ambition arrayed all Europe against him; his grandiose schemes of conquest ended in humiliation; the cost of his campaigns brought the country to the edge of bankruptcy; oppressive and unequal taxation spread poverty broadcast. His hand was as heavy on the church as on the state, and yet by a Jesuit ultramontane policy he alienated the sympathy of Gallican Catholics. The persecution of Protestants, culminating in the revocation of the Edict of Nantes, not only horrified all men of humane mind but added substantially to the impoverishment of the country.

The decadence of absolute government turned French philosophy once more in the direction of political and social theory. Beginning somewhat doubtfully in the last years of the seventeenth century, the interest in politics grew steadily. In the first half of the eighteenth century there was an amazing output of books on all phases of the subject—historical works on the ancient institutions of France, descriptive works on European government and especially that of England, books of travel describing the morals and institutions of American or Asiatic peoples usually with an oblique reference to France, plans for the reform of taxation and the improvement of agriculture or trade, and philosophical theories of the end and justification of government. Between 1750 and the Revolution the discussion of such subjects became an obsession. Every branch of literature—poetry, the drama, and the novel—became a vehicle of social discussion. All philosophy, indeed all scholarship, was bent in this direction, and even books on science might include the rudiments of a social philosophy. A poet like Voltaire or a novelist like Rousseau, a scientist like Diderot or D'Alembert, a civil servant like Turgot, and a metaphysician like Holbach produced political theory as naturally as a sociologist like Montesquieu wrote satire.

In this welter of ideas, repeated endlessly with varying applications, it is difficult to produce order without reducing philosophies to formulas that obscure their meaning, and doubly difficult to evaluate the new meaning that was continually put into old formulas. Considered merely as abstract theory this French philosophy contained little that was new. For the most part discussion popularized rather than created,

[1] *Politique tirée des propres paroles de l'écriture sainte* (written about 1670; first published, 1709), III, ii, 1.

and on the score of originality the eighteenth century in philosophy compared badly with the seventeenth. Yet an old idea in a new setting is not quite the same idea. In the course of the century theories that had been reasonably clear-cut tended to become blurred and to take on the eclectic quality characteristic of popular thinking. The self-evidence of natural rights was asserted and reasserted, yet the rationalism essential to a system of self-evident principles became continually more remote from the growing empiricism of social studies. An ethical and political utilitarianism, essentially empirical in its implications, was repeatedly crossed with the theory of natural rights in spite of the logical incompatibility of the two positions. A more serious incompatibility was involved in the growth of a philosophical romanticism that was hostile to empiricism and rationalism alike, though it was still expressed in the old terminology. This new tendency was the most original factor that appeared in the philosophy of the eighteenth century, but its disruptive force was not fully manifest until after the Revolution.

A really satisfactory arrangement of this complex material is probably impossible but on the whole it seems clear that one figure in the French eighteenth century stands apart, Jean Jacques Rousseau. He himself felt it and suffered from it; his acquaintances felt it and detested him for it; all discerning critics have tried to take account of it. Lytton Strachey has said, "He possessed one quality which cut him off from his contemporaries, which set an immense gulf betwixt him and them: he was modern." The word "modern" means nothing, but it suggests an important fact. However much he might use the current catchwords, Rousseau's political philosophy was different, both in its quality and its effects, from anything else written in the eighteenth century; it was differently related both to the Revolution and to the period that followed the Revolution. It seems best, therefore, to reserve Rousseau for a separate chapter and to give a fuller exposition of his vague but significant political philosophy. The present chapter will present summarily the more typical French thought of the age before the Revolution. In the main this philosophy grew from that of Locke but it developed important differences which need to be especially noted.

THE RECEPTION OF LOCKE

The criticism of Louis XIV's government which began at the end of the seventeenth century was not at first the product of any political philosophy but merely the reaction of conscientious men to the shocking effects of bad government. It came from the observations of an engineer like Vauban on the effects of unequal taxation on agriculture or of a magistrate like Boisguillebert on the wasteful effect of oppressive

restrictions on trade,[1] and it asked only a more enlightened form of autocracy. Criticism of autocracy itself came in the first instance in the name of the ancient institutions of France which the crown had crushed. This idea was developed speculatively by Fénelon in the romance *Tèlèmaque* and more positively in his occasional writings.[2] Independent local governments and provincial assemblies, the restoration of the States General, the revival of the power and influence of the nobility, and the independence of the parlements were sought as correctives of absolutism and defended as a return to the ancient constitution of the country.[3] Such a dream persisted, especially among the nobility, even down to the Revolution; traces of it may be seen in the *Spirit of the Laws*. But it was only a dream. From time to time the Parlement of Paris might resist the registering of an edict and gain popular favour by so doing, a kind of obstruction which suggests the controversies between Coke and James I. The latter, however, were effective only as preliminary to the struggle between Charles and parliament, and in France there was no parliament to take up the controversy. The parlements, in fact, represented nothing, and the suppression of their privileges in 1770 was really a reform. Absolutism had left France no traditional constitution which a reforming party could pretend to restore.

Criticism of the absolute monarchy urgently needed a philosophy—needed it doubly since the roots of a constitutional tradition had been so thoroughly grubbed out—and the philosophy of the English Revolution was ready to hand. In the seventeenth century French philosophy and science had been relatively self-contained; in the eighteenth, as Cartesianism hardened into a kind of scholasticism, it was deliberately supplanted by the philosophy of Locke and the science of Newton. In political thought such a result was a foregone conclusion after the revocation of the Edict of Nantes made religious toleration a major part of any reforming philosophy. With the residence of Voltaire in England between 1726 and 1729, and of Montesquieu ten years later, the philosophy of Locke became the foundation of French enlightenment, and the admiration of English government became the keynote of French liberalism. Henceforth the 'new way of ideas' was the rule of philosophical and psychological speculation, and the principles of the *Treatises of Government* (supplemented of course by other English works) became axioms of political and social criticism. These principles were very simple and very general. The law of nature, or of reason, was supposed to provide an adequate rule of life without the addition of any revealed or supernatural truth and was believed to be imprinted in essentially the same form upon the minds of all men. As a result of

[1] Vauban, *Projet d'une dixme royale* (1707); Boisguillebert, *Le détail de la France* (1695).
[2] See his letter to Louis XIV (1694), *Œuvres* (Paris, 1870), Vol. III, p. 425.
[3] Boulainvilliers *Histoire de l'ancien gouvernement de la France* (1727).

Hobbes and Locke, the content of the law of nature had become substantially enlightened self-interest, but because of the harmony inherent in nature a truly enlightened self-interest was thought to be conducive to the good of all. In accord with these general ethical principles, governments were held to exist only to further liberty, security, the enjoyment of property, and other individual goods. Hence political reform must aim to secure responsible government, to make it representative, to limit abuses and tyranny, to abolish monopoly and privilege—in short, to create a society in which individual energy and capacity are the keys to power and wealth. Upon the validity of these general principles there was no substantial difference among French writers nor between them and Locke, but in France a changed environment gave to the abstractions a colouring quite different from that which they had in England.

THE CHANGED ENVIRONMENT

Reference has already been made to the fact that the autocracy had done its work so thoroughly that no effective reform in France could attach itself to the idea of reviving the traditional constitution. The ancient ideal of a fundamental law, which sixteenth-century France had shared with all Europe and which had still vitality enough to hold an almost equal footing with sovereignty in Bodin's philosophy, had lost all concrete meaning in the monarchy of Louis XIV. In England it was little more than a difference of terminology if a Leveller called his "birthright" the right of a man or the right of an Englishman; in either case it meant something concrete in the tradition of the common law. The rights of Frenchmen—unless one meant the privileges of the nobility—would have been a practically meaningless phrase. In consequence, the rights of man, and there was nothing else that a French liberal could appeal to, were necessarily more abstract, more detached from usage and concrete applicability, more open to speculative interpretation. In importing Locke into France, the French must omit precisely the most characteristic—at all events the most English —quality of Locke's political rationalism. They could not import Richard Hooker or the gradual transition of ideas and institutions which made it possible for Locke to attach his philosophy to a tradition continuous with St Thomas and the Middle Ages, nor could they tie back the new philosophy to any French thinker of the sixteenth century. The historical and with it the relatively conservative quality of the English Revolution—in fact as well as in idea—was bound to be lost. The effect of this upon French political philosophy was profound. Reason was placed in stark opposition to custom and fact as it had never been in Locke. Probably no English politician would ever have said, as a speaker said before the National Convention,

> In dealing with matters so weighty I have sought the truth in the natural order of things and nowhere else. I have desired, so to speak, to preserve the virginity of my thought.[1]

The *a priori*, dogmatic, and hence radical quality of French political thought, in contrast with its English model, was heightened also by the circumstances under which it was produced. Though a doctrine of liberty it was written under a despotism, mostly by men with no experience of government and no possibility of such experience. Outside the ranks of the civil service no one in France had experience, and bureaucrats (allowing for the exception of Turgot) produced little political philosophy. The autocracy had made government a mystery conducted in secret, never divulging, even if it knew, the information, financial or other, on which an intelligent judgment of policy might be formed. Criticism and discussion, in public assemblies or in the press, were out of the question. Local government, always the school of English politics, had been completely subjected to central control, with the normal accompaniments of delay, friction, and red tape. Neither was there in France any such body of common ideas, tested in continual application, as the English common law. Before the Napoleonic Code France had some three hundred and sixty systems of local private law left standing by the merely administrative unification of the monarchy. Of necessity French political philosophy in the eighteenth century, far more than English, was a literary philosophy, in a sense a bookish though not a scholarly philosophy, written for the salons and the educated bourgeoisie, the only public to which an author could address himself. It abounds in formulas and sweeping generalizations; it strives after brilliant effects; and it moves largely in an atmosphere of vague but familiar ideas. It is often effective propaganda, more frequently negative than positive, but relatively seldom responsible. It is only fair to add that one knows to-day as little as in the eighteenth century what criticism of existing French government might have been really constructive.

There were social causes as well as political that gave to French political philosophy a tone of bitterness that had no counterpart in Locke. French society was a tissue of privilege which made the cleavage between classes more conscious and more irritating, if not more real, than in England. The clergy were still in possession of perhaps a fifth of the soil of France, with an enormous revenue and substantial exemptions and privileges, but with no moral or intellectual pre-eminence to justify their position. Similarly, the nobility had privilege without political power or leadership. French agriculture offered them no such chance for capitalist development as the English landlord enjoyed, and French politics no such chance for leadership. The feudal rents of the nobility were an economic drain for which no return

[1] *Moniteur universel*, May 15, 1793.

was made, either economic or political. To the middle class both clergy and nobility seemed parasites decked out with social privilege and with substantial exemptions from the burdens of taxation. Moreover, the French middle class was itself different from the English. There was nothing in France corresponding to the English yeomanry, and French agriculture was notable even before the Revolution for a large number of peasant proprietors. The middle class was typically an urban bourgeoisie, owning nearly all the capital and forming the main creditor of the insolvent state. In French political writing there was a class-consciousness and a sense of exploitation such as had appeared only sporadically in English political writing. And, in fact, the French Revolution was a social revolution as the English Revolution was not; it compressed into three or four years an expropriation of church lands, crown lands, and lands of *émigré* nobles comparable to that spread through the reigns of Henry VII and Henry VIII. It is hardly an exaggeration to say that Locke's philosophy in France before the Revolution was an attack on vested interests and in England after the Reformation a defence of them.

The foregoing divergences refer to the category of space but equally important ones refer to that of time. The fact that Locke in England belonged to the seventeenth century while Locke in France belonged to the eighteenth was itself a significant difference. In the days of Grotius and Descartes, and even in the days of Locke, the appeal to reason had been a high intellectual adventure, a new exploration on the frontiers of philosophy and science, and a deliverance from authority. In the eighteenth century it ran the risk of becoming a *cliché*. The farther it got from its source, the more assured it became, the more dogmatic, and the more commonplace. For despite the reverence expended on enlightenment, a good deal of what passed for rational ethics or rational politics was an obvious kind of prudential moralizing that was not intellectually penetrating and does not now seem morally stirring. Holbach's materialism proved that the literature of edification can be as flat when written by an atheist as it is when written by the clergy. Yet thousands of Frenchmen, and of Englishmen and Germans too, read such books with passionate interest. They made known to a new and larger public what a series of great philosophers and scientists, from Descartes and Galileo to Locke and Newton, had created. It is inevitable that by comparison the eighteenth century now suffers heavily. A genius of any age is always worth reading, but nothing is so dead as popular philosophy that has ceased to be popular.

There is, however, another and a more important side to this. The assurance of the eighteenth century and its confidence in reason was not bred of familiarity alone but was partly the effect of solid achievement. Until the publication of Newton's *Principia* in 1687,

modern science was on trial; a few philosophers had believed passionately in it but no one knew that it would work. After Newton every one knew, even though he had only the vaguest conception of the new engine. The idea of the new science affected men's imaginations far more than the actuality affected technology. For the reason of Newton seemed to have pierced to the very heart of nature, to have disclosed "that wisdom which we see equally displayed in the exquisite structure and just motions of the greatest and subtilest parts."[1] Nothing was beyond the power of reason; Bacon's saying that knowledge is power had come true and for the first time in history men could co-operate with the benevolent intentions which even atheists like Holbach still attributed to the harmony of nature. Nothing characterizes social thought in the eighteenth century so completely as belief in the possibility of happiness and progress under the guidance of reason. Much of this—the belief in the harmony of nature, for example—was sheer confusion in no way warranted by the new science. But on the whole the belief that man's fate was in the keeping of his intelligence was an honourable faith, more humane than the religion of authority that preceded it or the religion of sentimentality that followed it. In the large it did not overestimate the power of scientific reason to control nature, but whether that power extends to human relationships, no one knows to-day any more than the philosophers knew then. Their superficiality lay in a shocking exaggeration of the simplicity of the problem.

MONTESQUIEU: SOCIOLOGY AND LIBERTY

Of all French political philosophers in the eighteenth century (other than Rousseau) the most important was Montesquieu. Of them all he had perhaps the clearest conception of the complexities of a social philosophy, and yet he too was guilty of extreme oversimplification. He alone undertook what purported to be an empirical study of society and government on a large scale, and yet his supposed inductions were controlled throughout by preconceptions for which he neither had nor sought empirical proof. He attempted a political philosophy avowedly applicable to the widest range of circumstances, and yet nearly all that he wrote was written with an eye upon the state of affairs in France. Consequently Montesquïeu presents at once the best scientific aspirations of his age and its unavoidable confusions. Without laying aside the rationalist apparatus, such as the immutable natural law of justice and the contract, in effect he neglected the contract and suggested a sociological relativism quite incompatible with self-evident moral laws. He provided a plan for the study of

[1] From Maclaurin's popularization of Newton; quoted by Carl L. Becker, *The Heavenly City of the Eighteenth-century Philosophers* (1932), p. 62.

government in relation to both the physical and the social *milieu* which required the comparison of institutions on a wide scale, but he lacked both the accuracy of knowledge and the detachment needed to make the plan effective. His love of political liberty, the sole enthusiasm of an otherwise chilly temperament, was in the best tradition of the eighteenth century, but he united his theory to a hasty and superficial analysis of the constitutional principles of liberty.

It cannot be said that Montesquieu's *Spirit of the Laws* has any arrangement; it has been saved from the fate suffered by Bodin's *Republic* mainly by superior style. He addressed himself to two main points which had no intrinsic relationship. In the first place, he undertook to develop a sociological theory of government and law by showing that these depend for their structure and functioning upon the circumstances in which a people lives. The circumstances include physical conditions, such as climate and soil, which he supposed to have a direct influence upon national mentality; the state of the arts, trade, and the modes of producing goods; mental and moral temperaments and dispositions; the form of the political constitution; and the customs and habits that have become ingrained in national character. In a word, a form of government, using the expression in its broadest possible sense, is a whole requiring the mutual adjustment of all a people's institutions, if the government is to remain stable and orderly. In the second place, Montesquieu was haunted by the fear that the absolute monarchy had so undermined the traditional constitution of France that liberty had become for ever impossible. His detestation of despotism is clearly to be seen even in what purport to be objective statements about governments such as those of Russia and Turkey. His practical object—and much the most influential part of his work —was to analyse the constitutional conditions upon which freedom depends and so to discover the means of restoring the ancient liberties of Frenchmen. In respect to the last point it does not appear that he reached a definite conclusion. His writings gave aid and comfort both to reactionaries who hoped for the restoration of the parlements, the estates, and the provincial assemblies and to liberals who looked to an imitation of English government.

These two aspects of Montesquieu's thought were not definitely separated in his writings, either by place or date. The *Lettres Persanes* (1721) was in the main a social satire on the condition of France, in which the author paid his respects to the church, to Louis XIV, the decline of the parlements, and the decay of the nobility.[1] The thought behind the criticism was the same conception of despotism developed in the *Spirit of the Laws*—a government in which all intermediate powers between the king and the people have been crushed and law has been made identical with the sovereign's will. It was this interpretation of

[1] See Letters 24, 37, 92, 98 (ed. by Laboulaye).

despotism that gave importance to the separation of powers, which he believed he had found in the English constitution. Yet in the *Persian Letters* he already thought that the best government is that which "leads men in the way best suited to their disposition," and his discussion of the causes of depopulation showed a flair for sociological speculation.[1]

The composition of the *Esprit des lois* (1748) extended at least over seventeen years and every one has recognized that its parts are disparate. The occasional remarks on England in Books I to X by no means suggest the account of the English Constitution in Book XI,[2] and the treatment of the Roman constitution at the end of that book, after he had discovered the separation of powers, is unlike his earlier remarks on the ancient republic.[3] There seems to be no doubt that Montesquieu's travels in Europe between 1728 and 1731, and especially his residence in England, formed the crucial experience in his intellectual history. His love of liberty was in its early phase mainly ethical, bred of his study of the classics and reflecting an admiration for the ancient republic similar to that of Machiavelli, Milton, and Harrington. This phase of his thought remains in the *Spirit of the Laws* in the theory that virtue or public spirit is a precondition of this form of government. But Montesquieu's observation of existing republics, in Italy and in Holland, by no means bore out this preconception, and his residence in England suggested a new idea—that liberty might be the result not of superior civic morality but of a correct organization of the state. His famous eleventh book, on the construction of constitutions in accordance with the separation of powers, was the record of this discovery.

LAW AND ENVIRONMENT

Overtly the general principles of Montesquieu's social philosophy started with the law of nature. A law, he says in the opening sentence of the *Spirit of the Laws*, means "the necessary relations arising from the nature of things." This vague formula covers as always an ambiguity which he does nothing to clear up. In physics a "necessary relation" is merely a uniformity in the behaviour of bodies. In society a law is a rule or norm of human behaviour which presumably ought to be observed but is often violated. Of this fact Montesquieu has two explanations, neither of which explains anything: the freedom of the will and the defective intelligence of men, which prevents them from living up to the perfection displayed by the rest of nature. But he was emphatic in urging, against Hobbes, that nature does provide a standard of absolute justice prior to positive law; to deny it is as absurd as to say that "before describing a circle all the radii were not

[1] Letter 80; 112–122.
[2] Cf. Bk. II, ch. iv.
[3] On the dates of the various books see J. Dedieu, *Montesquieu* (1913), p. 82.

equal." Evidently he had never considered natural law with any care. His enumeration included factors as disparate as a knowledge of God, the bodily appetites, and the fundamental conditions of society. This was merely a conventional way of getting started. What interested him was the idea that this fundamental natural law in society, which he identified in the usual way with reason, must operate in different environments and so must produce different institutions in different places. Climate, soil, occupation, form of government, commerce, religion, customs are all relevant conditions in determining what in a particular case reason (or law) will set up. This fitness or relation of conditions, physical, mental, and institutional, forms the "spirit of the laws." Obviously what Montesquieu was suggesting was a sociological study, by a comparative method, of institutions and the incidence upon them of other institutions and non-institutional physical conditions. The assumption that all are variants of one 'nature' was hardly more than a fiction.

It is not easy to estimate with certainty either the originality or the importance of Montesquieu's project. What was most definitely his was the grandiose scale on which he proposed to carry it out. The idea itself he probably got in the first instance from Aristotle, especially from those books of the *Politics*[1] in which were analysed the innumerable nuances of democracy and oligarchy in the city-states. That laws must be adapted to a variety of circumstances, physical and institutional, and that good government must be good in this relative sense, had been fully stated by Aristotle, as had the speculation about the relation of national character to climate. Among modern writers Bodin had urged the same conceptions, but neither Aristotle nor Bodin had planned the investigation on what might be called cosmic lines. Montesquieu was intrigued by the great body of travel-literature which had grown up in the seventeenth century, dealing with the aborigines of the Americas and Africa and with the exotic civilizations of Asia. Chardin's *Journal* (1711) had stressed the effects of climate, and from this Montesquieu got most of the information used in the *Persian Letters*. What he proposed to do was to show the variability of the main types of government in all the multitude of circumstances to which these types are forced to adapt themselves.

For Montesquieu as for Aristotle the types or species of government were fixed; they are merely modified by the influence of their environment. Since Aristotle limited himself to the Greek cities, this assumption was substantially true; it was much more dangerous in an investigation planned on Montesquieu's scale. Considering the importance of the matter for his project, he devoted surprisingly little effort to determining the forms of government capable of being used in a comparison so wide. He explained his reasons neither for adopting in part

[1] Bks. IV–VI in the traditional arrangement.

the traditional threefold classification nor for departing from it. He merely asserted that governments are of three kinds: republican (a conflation of democracy and aristocracy), monarchical, and despotic. Despotism differs from monarchy in being arbitrary and capricious, while the latter is a constitutional government according to forms of law and requires the continuance of 'intermediate powers,' such as the nobility or communes, between the monarch and the people. To each of these forms of government he attached a 'principle,' or motive force in the character of subjects from which its power is derived and which is necessary to its continuance and functioning. Thus popular government depends on the civil virtue or public spirit of the people, monarchy depends upon the sense of honour of a military class, and despotism depends upon the fear or slavishness of its subjects.

It is impossible to see that Montesquieu's classification followed any principle at all. In respect to the number of rulers, monarchy and despotism fall together; and in respect to constitutionality, a republic can be as lawless as a despotism. Moreover, the idea that despotic governments have no law was a fiction, as was also the idea that his three kinds of government correspond respectively to small, middle-sized, and large states. It cannot be supposed that this classification of forms of government was in any sense produced by observation or comparison. As a venture in political realism it was not comparable with Harrington's theory that governments may be classified according to certain forms of land-tenure. Montesquieu seems to have followed merely a subjective interest motived by his ethical reaction to the political problems of France. His republic, actuated by the sturdy civic virtue of its citizens, was the Roman republic (or his idealization of it), having no relation to modern republics. His despotism was what he feared France had become under the policy of Richelieu and Louis XIV, after local government, the parlements, and the nobility had been deprived of their privileges. His monarchy was what he desired that France should remain, or what he later came to believe that England was. The main outline of Montesquieu's theory, therefore, was determined not by empirical considerations but by his preconceptions about what was desirable in France.

In so far as the *Spirit of the Laws* has any arrangement, it consists in following out the modifications in law and institutions appropriate to each form of government and the variations in each required by circumstances, physical or institutional. But there is not in truth much concatenation of subject-matter, and the amount of irrelevance is extraordinary. Books IV to X deal with educational institutions, criminal law, sumptuary laws and the position of women, the characteristic corruptions of each form, and the type of military organization appropriate to each. Books XI and XII contain the celebrated discussion of political and civil liberty, and Book XIII deals with

policies of taxation. Books XIV to XVII have to do with the effects of climate on government and industry, its relation to slavery and to political liberty. Book XVIII covers more briefly the effects of soil. With Book XIX, which reverts incongruously to the influence of custom, even this tenuous outline begins to break down. Books XX to XXII are practically observations at large on commerce and money; Book XXIII on population; and Books XXIV and XXV on religions. The work trails off in Books XXVI to XXXI into remarks on the history of Roman and Feudal Law.

To summarize Montesquieu's conclusions is quite impossible; they are mainly episodic and as a rule they have little dependence on what he alleges to be evidence. With respect to his main purpose it may be said that he oscillates between two tendencies inherent in the confused principles from which he started. On the one hand, he was inclined to assume that human law is rational and that accordingly there is a good reason, under the circumstances, for any usage that is widely and permanently established. Such an attitude agreed with his generally conservative inclination and with the theory that physical causes, such as climate, act directly on mental and moral capacities. Carried to its logical conclusion, however, it would have meant a complete moral relativism, and this was certainly never Montesquieu's position. On the other hand, he perhaps usually thought of climate and certain institutions (like slavery and polygamy) as adverse conditions which have to be compensated by legislation to produce a good moral result. This way of interpreting political evolution implies that the moral ideas at least of legislators are independent of social causation and that the causal influence of climate and the like is effective mainly as it enters into their calculations. Such a view cuts under a sociological theory of politics and repeats the exaggerated ideas about the influence of rulers which Machiavelli had made current. In fact, however, Montesquieu was less guilty on this score than his contemporaries.

It is impossible, therefore, to attach any very precise meaning to Montesquieu's celebrated dictum that laws must be adapted to the circumstances in which a nation lives. Undoubtedly it suggested a corrective for a purely abstract or *a priori* treatment of political justice. Undoubtedly also it suggested a comparative study of law on a wide scale, but it left the plan for such study quite vague. Montesquieu's most positive suggestion—that natural forces like climate act directly on the body and so upon the mind—has shared the fate of the same hypothesis in biology, which seemed so promising to Lamarck. The statement that Montesquieu really envisaged and used an inductive and comparative method of studying social institutions must be taken with extreme qualification. Probably few important political theorists were more addicted to hasty generalizations or less inclined to distinguish between exact inference and the impulsion of prior convic-

tions. He was indeed a man of wide reading but his knowledge was inexact, judged not by the scholarly standards of a later time but in terms of the sources at his disposal. His curious erudition was largely used to illustrate beliefs that would have been exactly the same if he had never heard of Persia. Even of political affairs in Europe, which lay under his eyes, Montesquieu was not so profound an observer as Machiavelli, Bodin, or even Harrington, who made no such pretensions to universal knowledge. What saves him from the charge of being an elegant amateur was not his scientific achievement but his whole-souled enthusiasm for liberty. He was a moralist for whom the eternal verities had begun to wear thin but who lacked the constructive power to get on without them.

THE SEPARATION OF POWERS

On the whole the estimate of Montesquieu's contemporaries—that his importance lay in spreading and strengthening the belief in British institutions as the means of political liberty—was not wrong. His residence in England freed him from the preconception that political liberty depends upon a superior virtue known only to the Romans and realized only in a city-state. It gave substance to his rooted dislike for despotism and suggested a way in which the evil effect of absolutism in France might perhaps be remedied. That Montesquieu himself believed it possible to imitate English government in France is probably not true, but certainly the famous eleventh book of the *Spirit of the Laws*, in which he ascribed liberty in England to the separation of the legislative, executive, and judicial powers, and to the balancing of these powers against each other, set up these doctrines as dogmas of liberal constitution-making. The extent of Montesquieu's influence in this respect is unquestionable and may be read at large in the bills of rights of American and French constitutions.[1]

This idea was, of course, one of the most ancient in political theory. The idea of the mixed state was as old as Plato's *Laws* and had been utilized by Polybius to explain the supposed stability of Roman government. The tempered or mixed monarchy was a familiar conception throughout the Middle Ages, and medieval constitutionalism had in fact depended on a division of powers, as distinct from the sovereign power claimed by the new monarchy. In England the controversies between the crown and the courts of common law and between the crown and parliament had given concrete importance to the separation of powers. Harrington had considered it to be essential to free government and Locke had given it a subsidiary place in his theory of parlia-

[1] For example, the Virginia Declaration of Rights (1776), sect. 5; the Massachusetts Constitution of 1780, Preamble, sect. 30; the French Declaration of the Rights of Man and of Citizens (1791), sect. 16. Americans of course were not dependent on Montesquieu alone for the separation of powers.

mentary priority. But in truth the idea of mixed government had never had a very definite meaning. It had connoted in part a participation and a balancing of social and economic interests and classes, in part a sharing of power by corporations such as communes or municipalities, and only in a small degree a constitutional organization of legal powers. Perhaps its greatest use had been as a makeweight against extreme centralization and as a reminder that no political organization will work unless it can assume comity and fair dealing between its various parts.

So far as Montesquieu modified the ancient doctrine it was by making the separation of powers into a system of legal checks and balances between the parts of a constitution. He was not, in fact, very precise. Much of what his eleventh book contained, such for example as the general advantages of representative institutions or the specific advantages of the jury-system or a hereditary nobility, had nothing to do with the separation of powers. The specific form of his theory depended upon the proposition that all political functions must of necessity be classifiable as legislative, executive, or judicial, yet to this crucial point he devoted no discussion whatever. The feasibility of making a radical separation between legislation and the judicial process, or between the making of a policy and control over its execution, would hardly have commended itself in any age to a political realist. Montesquieu, like every one who used his theory, did not really contemplate an absolute separation of the three powers: the legislative ought to meet at the call of the executive; the executive retains a veto on legislation; and the legislature ought to exercise extraordinary judicial powers. The separation of powers, as Montesquieu described it and as it always remained, was crossed by a contradictory principle—the greater power of the legislature—which in effect made it a dogma supplemented by an undefined privilege of making exceptions.

It is a remarkable fact about Montesquieu's version of the separation of powers that he professed to discover it by a study of the English constitution. In truth the civil wars had destroyed the vestiges of medievalism that made it appropriate to call England a mixed government, and the Revolution of 1688 had settled the supremacy of Parliament. To be sure, when Montesquieu visited England, the status of the ministry was not very clearly fixed, but no man who relied on independent observation would have pitched upon the separation of powers as the distinctive feature of the constitution. But Montesquieu did not rely on observation. Locke and Harrington had taught him what to expect and for the rest he adopted the myth which was current among the English themselves. Thus he may have learned from his friend Bolingbroke:

> It is by this mixture of monarchical, aristocratical, and democratical power, blended together in one system, and by these three estates balancing

> one another, that our free constitution of government hath been preserved so long inviolate.[1]

This theory of the constitution was preserved, partly under Montesquieu's influence, by Blackstone. Even Burke, though he was the last man to take seriously a rigid separation of legal powers, believed that the Revolution had resulted in the balancing of interests and orders. It was not until Bentham's criticism of Blackstone in the *Fragment on Government* (1776) that the separation of powers was effectively attacked.

VOLTAIRE AND CIVIL LIBERTY

Apart from its analysis of the English constitution, the *Spirit of the Laws* was not in its implications characteristic of political thought in the eighteenth century. The book at least suggested a dependence of political institutions upon physical and social causes, and a consequent relativism of political values, which was contrary to the view that commonly prevailed. In general French writers in the eighteenth century believed as firmly as those of the seventeenth that reason provides an absolute standard by which human conduct and social institutions can be once for all justified or discredited. The tactical value of this assumption for the criticism of corrupt or oppressive governments is evident. Moreover, the two great triumphs of modern thought—Newton's physics and Locke's psychology—appeared for the time being to lend themselves to such an interpretation. Newton's success in stating the mechanical laws of nature, true without limitation of space or time, gave colour to the presumption that political and economic events could be treated in the same highly generalized fashion while Locke's proposal of a universal natural history of the mind, conceived on lines substantially similar to those of Newton's physics, implied the psychological explanation of social processes without reference to limitations set by history or the evolution of institutions. Newton and Locke were the two writers whose authority stood highest throughout the eighteenth century. To popularize Newton's physics and Locke's philosophy were the two projects that Voltaire brought with him from England when he returned to France in 1729.[2]

Voltaire's admiration for England was directed less towards its representative government than towards the freedom of discussion and publication which it permitted. Hence the first incidence of Locke's philosophy in France was only indirectly political. It came as much from the *Letters on Toleration* as from the *Treatises of Government*, and it coincided both with the tradition of French constitutionalism, which Louis XIV had violated by revoking the Edict of Nantes, and with the effects of Pierre Bayle's genial scepticism, which had urged, even before

[1] *A Dissertation upon Parties.* Letter 13; from the *Craftsman*, written in 1733–34.
[2] His *Letters on the English* was published in English in 1733 and in French in 1734.

Locke had published his similar argument, that no religious doctrine is either indubitable or indispensable to morals. The oppressive censorship both of religious and political opinion made the freedom of publication a vital issue in France, and in this cause no publicist laboured so tirelessly as Voltaire. His onslaught on persecuting Christianity was probably the greatest contribution to freedom of speech ever made. But he largely divorced this crusade from the cause of popular government, a not very far-sighted policy, since civil liberty was unattainable unless political liberty came with it. He had little interest in politics on its own account and no interest at all in the masses of men, whom he regarded as cruel and stupid. But he had an intense interest in the freedom of scholars, and he was humane enough to be revolted by the stupidities and brutalities of French criminal law. Best of all, he was endlessly pugnacious and he was gifted with a wit that could always make his enemies ridiculous. Since it was impossible to argue with institutions that had no brains, ridicule was his most effective weapon. Because of the censorship, this sort of attack on the church and also on the state had to be carried on chiefly by innuendo and indirection. Diderot in the *Encyclopaedia* stated the plan upon which that great organ of liberalism was edited:

> In all cases where a national prejudice would seem to deserve respect, the particular article ought to set it respectfully forth, with its whole procession of attractions and probabilities. But the edifice of mud ought to be overthrown and an unprofitable heap of dust scattered to the wind, by references to articles in which solid principles serve as a base for the opposite truths. This way of undeceiving men operates promptly on minds of the right stamp, and it operates infallibly and without any troublesome consequences, secretly and without disturbance, on minds of every description.[1]

The novelty of Voltaire's ideas of religion and toleration consisted not in any quality intrinsic to them. They differed from Locke's only slightly, in a more complete denial of revelation, and not at all from those of many Englishmen. But in France they took on a radical tone which they entirely lacked in England, and the same was true of Locke's political philosophy. This was due less to the ideas themselves than to the environment in which they found themselves. The French government and the French church being what they were, even moderately liberal ideas were subversive. The very same philosophy, abstractly considered, that had a conservative tone in England had a radical tone in France. As John Morley has pointed out, the Englishmen who set the fashions of English thought in the eighteenth century were all on the side of the *status quo*, while any similar group of French writers would include many who were the objects of active and effective persecution.

[1] *S.v.* Encyclopédie; John Morley's translation.

HELVETIUS: FRENCH UTILITARIANISM

The theoretical enlargement of Locke's social philosophy took place on similar lines both in France and England. The *Treatises of Government*, depending substantially on the self-evidence of individual rights, and also the theory of knowledge in the fourth book of the *Essay*, stood in no relation to what was immediately recognized as the most suggestive part of his work—a natural history of the understanding in terms of ideas derived ultimately from the senses, which he had attempted in the second book. The speculative development of Locke's philosophy therefore concerned itself with enlarging what he had called "the new way of ideas" and with eliminating the Cartesianism which still mainly characterized his theory of scientific knowledge. Probably the work which turned the scale was Berkeley's brilliantly successful little essay on a *New Theory of Vision*, published in 1709 and based partly on Malebranche, which showed how effectively the psychological law of association could be used in analysing and explaining a mental operation (the visual perception of depth) which seemed to be unitary and innate. Moreover, this way of developing Locke's thought seemed to be in line with his own expressed admiration for Newton's physics. Hume in his *Treatise* (1739) compared the association of ideas as an explanatory principle in psychology with the attraction of gravity in the physical world. Henceforth explanations of mental processes meant reducing them to elements of sensation and showing their evolution through the law of association. By the middle of the century Condillac had made this kind of psychology familiar in France.

Locke's ethical and political ideas now needed revision, because these depended upon the intuitive power of reason to grasp manifest truths. He might reject innate ideas but the self-evident rights of individuals were in reality nothing else. There was no great difficulty, however, in constructing a theory of human behaviour that would make it, too, explainable by the association of ideas. The simplest hypothesis was to assume two native forces of motivation, the desire for pleasure and the dislike of pain, and to explain all more complicated motives as derivative by the association of pleasure or pain with more or less remote causes of them; substantially conditioned reflexes. The end of human conduct is simply to enjoy as much pleasure and suffer as little pain as possible. Such a theory was developed in England[1] in the 1730's and 1740's and was elaborately presented in France in Helvetius's *De l'esprit* in 1758. Again there was a surprising difference between the tone which this utilitarian ethics had in England and that which it acquired in France. In England it was in origin a theological, even

[1] The earliest clear statement of the theory in outline was in John Gay's *Concerning the Fundamental Principle of Virtue or Morality* (1731); in L. A. Selby-Bigge's *British Moralist*, Vol. II, p. 267. See E. Albee, *English Utilitarianism* (1902), ch. i–ix.

an ecclesiastical, theory preferred by the orthodox because of the importance which they attached to the pleasures or pains of a future life. In France Helvetius made it a programme for the reforming legislator, who can utilize the mechanism of human motives to bring private happiness and public welfare into the most complete accord. In short, he made the greatest-happiness principle an instrument of reform and passed it on to his two followers, Beccaria and Bentham. Thus it was that the latter learned in France, and in the first instance from Helvetius, an English philosophy which he could bring back to England and use as an agent of radical reform, though its philosophical principles had been bulwarks of English orthodoxy for half a century.

Helvetius says in the Preface of *De l'esprit* that he has tried to treat ethics like any other science and to make it as empirical as physics. Moralists have tended to be hortatory or denunciatory, both equally futile, for morals must start from an understanding of the forces that cause human action. The first principle of conduct is the fact that men must of necessity pursue their own interests; self-interest in the moral sciences has the same place as motion in physics. What any man judges to be good is what he supposes to conduce to his interests, and similarly what any group of men or any nation sets up as moral is what it believes to conduce to the general interest.

> Moralists declaim continually against the badness of men, but this shows how little they understand of the matter. Men are not bad; they are merely subject to their own interests. The lamentations of moralists will certainly not change this motive power of human nature. The thing to complain of is not the badness of men but the ignorance of legislators, who have always put the interest of individuals into opposition with the general interest.[1]

The only rational standard of conduct on the whole, then, must be the greatest good of the greatest number; what stands opposed to it is the special good of a particular class or group. A group may have an erroneous notion of the causes of its happiness and so may set up a faulty standard, or a small group may exploit a larger group for its own interests. The remedy in either case is a more enlightened understanding of true interest or a more widespread enlightenment. Morality thus becomes the problem of the "legislator," who must make special interests consonant with general and must above all spread the knowledge by which men can see how the public welfare includes their own. Because moral teaching has largely been entrusted to religious fanatics, because tyrannous rulers have not really desired the public good, and because men have been lazy and superstitious and ignorant, ethics has remained backward relative to other sciences. It is idle to tell men to honour virtue and leave them under institutions that put a premium on vice. A proper understanding of human motives

[1] *De l'esprit*, II, 5; *Œuvres* (Paris, 1795), Vol. I, p. 208 n.

places unlimited power in the hands of intelligent rulers and opens an unlimited possibility of progress in human happiness. An ethics thus conceived becomes the key to public policy.

> Good laws are the only means of making men virtuous. The whole art of legislation consists in forcing men, by the sentiment of self-love, to be always just to others. To make such laws it is necessary to know the human heart, and first of all to know that men, though concerned about themselves and indifferent to others, are born neither good nor bad but are capable of being the one or the other according as a common interest unites or divides them; that the preference which each man feels for himself—a sentiment on which the continuance of the race depends—is ineffaceably engraved upon him by nature; that physical sensation produces in us the love of pleasure and the dislike of pain; that pleasure and pain have placed the germ of self-love in the hearts of every man, which grows in turn into the passions from which arise all our virtues and vices.[1]

Helvetius supported his conclusion by developing the psychological argument suggested in this quotation. Only the desire for pleasure and the aversion to pain are native impulses. In language later borrowed by Bentham he describes these as the two "safeguards" that nature has supplied to men; all other motives are "*factices*" and come about by the association of pleasure and pain with acts that are more or less remote causes of them. On this foundation he erected what may be called a psychological theory of culture opposed to Montesquieu's theory that it is directly influenced by climate and the like, and implying a denial of the influence of race. Since all mental operations reduce to associations, he concluded that there are no innate differences of intellectual faculty. The forming of associations depends on attention, and attention depends upon the motive force supplied by pleasure or pain. In particular there are no innate moral faculties. The ideas of good and evil that men form depend wholly on what circumstance, or in a broad sense education, makes pleasurable or the reverse; the inferiority or superiority of a nation's morals results chiefly from legislation. Despotism brutalizes while good laws make a natural harmony of individual and public interests; on the whole, great and good men appear wherever the skill of legislators has created the proper rewards of talent and virtue. Though difficult, this task is not impossible, and the moral development of any people to any height is at least simple in principle: it consists in creating the necessary incentives to the desired virtues by supplying increments of pleasure or pain at the strategic points.

The associational psychology and the utilitarian ethics appeared to be a great simplification of Locke's political theory because, for an unspecified number of self-evident rights, it substituted a single standard of value, the greatest happiness of the greatest number. In fact, it was much more than a simplification because, thoroughly applied,

[1] *De l'esprit*, II, 24; Vol. I, pp. 394 ff.

it destroyed natural right, the contract theory of government, and the whole system of natural law that was supposed to guarantee the harmony of individual interests in society. No writer in the eighteenth century was entirely clear on this point except Hume, and even Bentham, who followed him in setting utility in opposition to natural rights, was far from seeing all the implications of doing so. For if morality and social institutions are justified merely by their utility, rights must be so too, and in consequence any claim to a natural right is either nonsense or merely a confused way of saying that the right really does conduce to the greatest happiness. Helvetius seems to have been quite unaware of this discrepancy.

As the utilitarian ethics was actually worked out it contained assumptions that were in no way justified by the principle of utility but were accepted as in effect self-evident. Thus the presumption that every one's happiness could be maximized at once was nothing except the old belief in the harmony of nature, which was supposed to prove that realizing all individual rights would produce the most harmonious society. Again, the presumption that one man's happiness ought to be counted as having the same value as another's was identical with the belief in natural equality. It was quite possible that the two principles, utility and natural right, should have led to opposite practical conclusions, and in some degree they really did so. The conclusion that Helvetius drew from the principle of utility was that a wise legislator would use pains and penalties to make men's interests harmonize, which need not imply any great degree of liberty. Natural law, on the contrary, implied that men's interests were naturally harmonious if they were left free, and this argument was used by the economists to prove that the legislator ought to keep his hands off trade. What held the two arguments together was not logic but the fact that those who used them were pretty well agreed about the conclusions they meant to reach. The same political reforms were defended indifferently in the name of utility or of natural law.

THE PHYSIOCRATS

The utilitarianism which Helvetius developed as a theory of morals and legislation was extended simultaneously to economics, Quesnay's *Tableau économique* being published in the same year with *De l'esprit*. Like Helvetius the Physiocrats regarded pleasure and pain as the two springs of human action and enlightened self-interest as the rule for a well-regulated society. But they allowed no such rôle to the legislator; his task is easy, namely, to avoid interfering with the natural operation of economic laws. Since each man is the best judge of his own interests, the surest way to make men happy is to reduce restrictions on individual effort and initiative. Governments ought, therefore, to reduce legisla-

tion to the indispensable minimum that will prevent invasions of individual liberty. This argument assumes that there are natural economic laws—what Adam Smith later called "the obvious and simple system of natural liberty"—which produce the greatest prosperity and harmony when they are not interfered with. It was a curious confusion of two quite different meanings of natural law, the older meaning of it as setting up a standard of justice and right reason and the new meaning of it as giving merely an empirical generalization. From the point of view merely of utility there was no reason to presume that a policy of keeping government out of business would necessarily lead to the greatest good of the greatest number. Economic liberty was not taken to imply political rights; the Physiocrats were content with absolute monarchy if it would follow an enlightened economic policy. In general, all the French philosophers, except Rousseau, were more concerned with civil liberties, such as equality before the law and freedom of action, than they were with popular government.

HOLBACH

The full polemic force of the utilitarian version of natural rights was not felt in France until the 1770's, when Holbach published "the Bible of atheists," his famous *System of Nature*, and also his work on politics.[1] In place of Voltaire's vague deism Holbach put a thoroughgoing atheism or materialism, supposed to depend on physical science, and made it the ground for a drastic attack on religion. The *System of Nature* was the first of a series of books, punctuating philosophy at intervals of about a generation, which have achieved enormous popularity with those who believe that religion is the "opium of the people." Like the others, Holbach's book included a kind of pantheist religion of its own which had no logical dependence on science. Certainly the famous apostrophe to Nature with which he ended was never derived by any intellectual operation from contemplating a mechanical system.

Holbach left Voltaire behind in still another respect; side by side with his attack on religion he placed an equally outspoken attack on government. Governments in general, and the government of France in particular, have been ignorant, incompetent, unjust, rapacious, devoted to the exploitation rather than the wellbeing of their subjects, indifferent to trade and agriculture as well as to education and the arts, mainly interested in war and conquest, and rather the breeders of depopulation and famine than the agents of the general good. Through this indictment ran an intense note of class-consciousness, that of the excluded middle class, acutely aware of its own virtues, bitterly hostile to a government that exploited it in the interest of a class of social

[1] *Système social* (1773); *La politique naturelle* (1773).

parasites, and serenely confident that its own interests were identical with the general good. For Holbach and the English utilitarians the belief that the middle class is in a special sense the representative of social welfare made it appear that class-conflict was merely an evil to be removed by extending political rights. This awareness of class-conflict and of government as an instrument of exploitation was carried to England with utilitarianism, where it lay ready to the hand of Karl Marx.

In its general principles there was little difference between Holbach's political philosophy and that of Helvetius, but Holbach was less interested in psychology and more interested in government. Men are not born bad but are made so by bad government; the essence of bad government is that it has not made the general happiness its main object; the cause of bad government is that it has been in the hands of tyrants and priests whose interest is not to govern but to exploit; and the remedy is to give free scope to the "general will"[1] which implies a harmony of self-interest and natural good. The sovereign is an agent who exercises the authority of society to repress injurious conduct. But society is good only because it gives men freedom to seek their own good, and liberty is an "inalienable right" because prosperity is impossible without it. All nations taken together make up an international society in which war is the counterpart of murder and robbery within a single nation. Despotism is a perversion of sovereignty in which the interests of a governing class usurp the place belonging to the general interest; the division of interests between classes is a chief source of weakness. The remedy, in a word, is education, which by itself Holbach expected to "work the miracle" of a reformation, for men are rational and need only see their true interest to follow it. Enlighten them, remove the obstacles set up by superstition and tyranny, leave them free to follow the light of reason, convince rulers that their interests are really identical with those of their subjects, and a happy state of society will follow almost automatically. If men see their real interests they will follow them; if they follow their true self-interest, the good of all follows. Nothing is more astonishing than the way in which Holbach can draw an indictment against the stupidity of all history and in the same breath propose to change it by merely pointing out that stupidity does not pay.

In contrast with the violence of Holbach's charges against government is the rather extreme moderation of the liberal remedies that he had to propose. He was in no sense a revolutionist, at least in intention. Again and again he says that reason sheds no blood, that enlightened men are peaceable, that intelligence is slow but sure. Still less was he

[1] The expression *volonté générale* was used by Diderot in his article on Natural Law and by Rousseau in the article on Political Economy in the *Encyclopaedia* (1755). Which man originated it is uncertain, but Rousseau gave it a special meaning of his own; see the next chapter.

a democrat. The representatives of the people must be men of property, "bound to the state by their possessions and interested to conserve them as much as to maintain liberty."

> By the word people I do not mean the stupid populace which, being deprived of enlightenment and good sense, may at any moment become the instrument and accomplice of turbulent demagogues who wish to disturb society. Every man who can live respectably from the income of his property and every head of a family who owns land ought to be regarded as a citizen. The artisan, the merchant, and the wage-earner ought to be protected by a state which they serve usefully after their fashion, but they are not true members until by their labour and industry they have acquired land.[1]

Hence for Holbach the true reformer was the sovereign; all that is needed is to convince him that "the absurd right to do wrong" is bad policy. The belief in the omnipotence of enlightenment was not a democratic doctrine because universal education appeared to be impossible. The great democrat of the eighteenth century was Rousseau, and his ideas about education attached least importance to intellectual enlightenment.

PROGRESS: TURGOT AND CONDORCET

Throughout this literature from Helvetius to Holbach runs the idea of human progress. It was implicit in the idea of a natural social order and in the vision of a general science of human nature, in the belief that social wellbeing is a product of knowledge, and most emphatically in Locke's conception that knowledge results from the accumulation of experience. The idea of progress had never been wholly absent from philosophical empiricism, from the time when Bacon, comparing ancient with modern learning, had asserted that the modern age "is a more advanced age of the world, and stored and stocked with infinite experiments and observations," or when Pascal had suggested that the history of the race, like that of an individual, may be conceived as a continuous process of learning. Voltaire in his histories, by emphasizing the idea that the evolution of the arts and sciences is the key to social development, contributed to the same point of view. Turgot and Condorcet turned the idea of progress into a philosophy of history by enumerating the stages of development through which society has passed.[2] Of the two Turgot's brief essay was philosophically the more important, though Condorcet shows more clearly the aspirations and hopes which inspired the belief in progress. Turgot with profound insight stated the essential difference between those sciences, such as physics, which seek for laws of recurrent phenomena, and history,

[1] *Système social* (1773), Vol. II, p. 52.

[2] Turgot, *Discours sur les progrès successifs de l'esprit humain* (1750); Condorcet, *Esquisse J'un tableau historique des progrès de l'esprit humain* (1794). In England Godwin's *Political dustice* (1793) presented a philosophy similar to Condorcet's.

which follows the ever-growing accumulation of experience that makes up a civilization. In seeking a pattern for this infinitely growing variety he suggested something not very different from Comte's law of the three stages: an animistic, a speculative, and a scientific stage. Condorcet contented himself, after mentioning three hypothetical prehistorical stages, with dividing European history into six stages, two for the ancient, two for the medieval, and two for the modern period. The French Revolution, he thought, marked the beginning of a new and more glorious era. The disasters in which the Revolution involved him and which destroyed him before his book was finally revised could not destroy his confidence in human destiny.

Condorcet's account of the coming era is more indicative of the meaning which the idea of progress had for him than his division of history. This utopia is to arise from the spread of knowledge and from the power which knowledge gives to men over the obstacles to happiness, physical and mental. Its basis is Locke's empiricism, interpreted after the manner of Helvetius. Progress, Condorcet believed, will probably follow three lines, growing equality between nations, the elimination of class-differences, and a general mental and moral improvement resulting from the first two. It is possible for all nations and all races to become as enlightened as the revolutions have shown the Americans and the French to be. Democracy will do away with the exploitation of backward races and make Europeans the elder brothers rather than the masters of black men. Within each nation it is possible to remove the disadvantages of education, opportunity, and wealth which inequalities of social class have imposed on the less fortunate. Freedom of trade, insurance for the sick and aged, the abolition of war, the elimination of both poverty and luxury, equal rights for women, and above all universal education can give a practically equal chance to all. Finally, Condorcet expected that progress would be cumulative, since the perfecting of social arrangements will improve the mental, moral, and physical powers of the race itself.

> The time will come when the sun will shine only upon a world of free men who recognize no master except their reason, when tyrants and slaves, priests and their stupid or hypocritical tools, will no longer exist except in history or on the stage.[1]

> Bliss was it in that dawn to be alive,
> But to be young was very heaven!

When the philosophy briefly described in this chapter is passed in review, the conclusion cannot be avoided that it was important rather for the extent of the public which it influenced than for the novelty or the profundity of the ideas which it disseminated. It belonged more to the *métier* of popularization than of discovery. The eighteenth century has rightly been called the age of encyclopædias,

[1] *Esquisse* (ed. by O. H. Prior), p. 210.

an age in which Europe consolidated the gains made by the more original genius of the preceding century. This was true even of a figure as striking as Montesquieu. Its political philosophy remained essentially that of natural rights, inhering in individual personalities and setting the standards of what law and government may rightfully do and the limits beyond which they may not rightfully go. In the nature of the case such rights must be set up as axioms, the products of rational intuition, incapable of proof and still less defensible by empirical generalization. At the worst this was a better dogmatism than that of authority from which it released the seventeenth century, but the appeal to self-evidence was none the less dogmatism. Neither in science nor social studies could it withstand a wide and steady application of empirical methods.

There was a steady though not a completely conscious change in this respect throughout the eighteenth century: social philosophy was empirical as neither Hobbes nor Locke had been. It prosecuted the study of social history as the seventeenth century had never done; it explored the customs and the manners of outlandish folk as no rationalist would have thought worth while; it followed the processes of manufacture and the mechanic arts, of trade and finance and taxation, in a manner shocking to the pundits of the higher learning. Yet this empiricism had, so to speak, all the bias of rationalism; it had the foible of omniscience and the itch for simplicity. It appealed to fact but it insisted that facts should speak a predetermined language. Even the new ethics of utility and the new economics, which were the chief additions made to social theory, were logically incoherent for precisely this reason. They professed to rest on an empirical theory of human motives but they assumed a harmony of nature for which no scientific proof could ever have been given. Thus the popular thought of the eighteenth century reiterated a philosophy which in effect it only half believed and professed a method which it only half practised. The practical importance of this popular philosophy was very great. It spread through all Europe the belief in science; it fostered the hope that intelligence might make men measurably the masters of their social and political fate; it passionately defended ideals of liberty, opportunity, and humane living, even though it did so mainly in the interests of a single social class. Beyond measure it did not apotheosize its prejudices. But intellectually it was superficial and partly for this reason it fell a prey to an appeal to sentiment, begun by Rousseau, which on the whole lacked its solid virtues.

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CHAPTER XXVIII

THE REDISCOVERY OF THE COMMUNITY: ROUSSEAU

BETWEEN the writers most characteristic of the French Enlightenment and Jean Jacques Rousseau is fixed a great gulf. Its existence was patent to every one concerned; its exact nature has never been finally settled. Diderot described it as "the vast chasm between heaven and hell" and said that the very idea of Rousseau disturbed his work "as if I had a damned soul at my side." Rousseau in turn said that any man who could doubt his honesty "deserved the gibbet." All Europe resounded with the quarrel, and the bitterness on both sides passes belief. Even the elementary question of personal honesty is still debated, though probably few now believe that Diderot was anything but an upright man or that Rousseau was really a hypocrite. Thomas Carlyle once said that he differed from Sterling only in his "opinions." Rousseau differed from his contemporaries in everything but his opinions; even when he used the same words he meant something different. His character, his outlook on life, his scale of values, his instinctive reactions, all differed essentially from what the Enlightenment regarded as admirable. The twelve years from 1744 to 1756 that he spent in Paris brought him into close association with the circle that wrote the *Encyclopaedia* but they only produced on both sides the conviction that Rousseau did not belong there.

This opposition, and indeed all that Rousseau wrote on philosophy and politics, grew in some devious way from his complex and unhappy personality. His *Confessions* gives a clear picture of a deeply divided personality, in which morbidities both of sex and religion played a large part. "My tastes and thoughts," he says, "always seemed to fluctuate between the noble and the base." His relations with women, both real and imaginary, display a violent sensuality failing alike of animal satisfaction or effective sublimation, but issuing in a riot of sentimental fancy and introspective attitudinizing. For him the discipline, intellectual or moral, characteristic of Calvinism in its more vital forms had never existed. But he continued to be bedevilled by a Puritan conscience, a sense of sin, and the fear of damnation. It had little effect perhaps on what he did but it produced, by way of compensation, a fine crop of moral sentiments. "I easily forget my misfortunes, but I cannot forget my faults, and still less my virtuous sentiments." Rousseau's passionate belief that men are naturally good,

which he once said was the fundamental principle of his ethical writings, was less an intellectual conviction than a reversal of his innate fear that he was bad. By throwing the fault on society he was able at once to satisfy his need for condemnation and to shelter himself in a comfortable myth.

This conflict in Rousseau's personality between the noble and the base, the ideal and the real, robbed him of all satisfaction in his work or confidence in its value. The inception of an idea was like a light from heaven, resolving "all the contradictions of our social system." The expression conveyed not one quarter of the vague but glittering vision. In social relations he laboured under a painful sense of inadequacy, stupidity, and self-distrust. He seems never to have been comfortable except with women and in relationships practically devoid of intellectual content. By inclination he was parasitic and during considerable periods he lived in a state of semi-dependence, but he could never accept dependence gracefully. Instead, he built around himself a myth of pseudo-Stoicism and fictitious self-sufficiency, which expressed itself most definitely in suspicion of those who tried to befriend him and in the discovery of elaborate plots, probably imaginary, to ruin and betray him. Before the end of his life these suspicions became well-defined delusions of persecution. Despite his years of not uncongenial vagabondage, he represented in taste and morals the sentimentality of the lower middle class. Essentially he was interested in homely things, was terrified of science and art, distrusted polished manners, sentimentalized commonplace virtues, and enthroned sense above intelligence.

THE REVOLT AGAINST REASON

More than most men Rousseau projected the contradictions and maladjustments of his own nature upon the society about him and sought an anodyne for his own painful sensitivity. For this purpose he adopted the familiar contrast between the natural and the actual, current in all the appeals to reason. But Rousseau did not appeal to reason. On the contrary he turned the contrast into an attack upon reason. Against intelligence, the growth of knowledge, and the progress of science, which the Enlightenment believed to be the only hope of civilization, he set amiable and benevolent sentiments, the good will, and reverence. What gives value to life is the common emotions, perhaps one might say instincts, in respect to which men differ hardly at all and which he imagined to exist in a purer and less perverted form in the simple, uneducated man than in the enlightened and sophisticated. "A thinking man is a depraved animal." All his moral valuations turned upon the worth of these common feelings: the affections of family life, the joy and beauty of motherhood, the satisfactions

of the homely arts like tilling the soil, the universal feeling of religious reverence, above all, the sense of a common lot and the sharing of a common life—all that men learned after him to call the 'realities' of everyday living. By contrast science is the fruit of idle curiosity; philosophy is mere intellectual frippery; the amenities of polite life are tinsel.

The hero of Rousseau's primitivism was not the noble savage; it was the irritated and bewildered bourgeois, at odds with a society that despised and looked down on him, conscious of his own purity of heart and the greatness of his own deserts, and profoundly shocked at the badness of the philosophers to whom nothing was sacred. By some queer logic of the emotions, therefore, he joined in an equal condemnation both the social order that oppressed him and the philosophy which had attacked the foundations of that society. Against both he set up the pieties and the virtues of the simple heart. The truth is that Rousseau first made vocal a newly awakened fear, the fear that rational criticism, having demolished the more inconvenient pieties like the dogmas and disciplines of the church, might not be made to stop before the pieties which it still seemed judicious to retain.

> These vain and futile declaimers [the philosophers] go forth on all sides, armed with their fatal paradoxes, to sap the foundations of our faith, and nullify virtue. They smile contemptuously at such old names as patriotism and religion, and consecrate their talents and philosophy to the destruction and defamation of all that men hold sacred.[1]

In short, intelligence is dangerous because it undermines reverence; science is destructive because it takes away faith; reason is bad because it sets prudence against moral intuition. Without reverence, faith, and moral intuition there is neither character nor society. This was a note which the Enlightenment could not easily understand—unless it were a covert defence of revelation and the church, as in fact it was not—for the Enlightenment was accustomed to centre its faith and its hope in reason and science. The enormous importance of Rousseau lies in the fact that, broadly speaking, he carried philosophy with him against its own tradition. Kant acknowledged that Rousseau had first revealed to him the surpassing value of the moral will as compared with scientific inquiry, and Kant's philosophy, if not the beginning of a new age of faith, at least began a new division between science on the one side and religion and morals on the other. In this new alignment philosophy was less the ally of science than the protector of religion. Science must be carefully confined to the phenomenal world, where it can do no harm to the verities of the heart, to religion and the moral law. To say that science knows only appearances at least suggests

[1] *The Arts and Sciences*, Eng. trans. by G. D. H. Cole, *The Social Contract and Discourses* (Everyman's Library), p. 142.

that there is some other way of knowing realities. Philosophy, once released from science, did not always walk soberly with the moral law. Sometimes it sought the higher truth by ways non-rational and irrational, by faith, by the light of genius, by metaphysical intuition, or in the will. The distrust of intelligence was written large over the philosophy of the nineteenth century.

A political philosophy which, like Rousseau's, began by magnifying the moral sentiments against reason, might be carried out in a variety of ways but it was bound to be contrary to the traditional liberalism either of natural rights or of utility. Both Rousseau and Kant denied that rational self-interest is a reputable moral motive and excluded prudence from the list of moral virtues. The outcome might be a more radical doctrine of equality than could be defended on grounds of reason and individual rights, since Rousseau supposed that the moral virtues exist in the greatest purity among the common people. As he said in *Émile*:

> It is the common people who compose the human race; what is not the people is hardly worth taking into account. Man is the same in all ranks; that being so, the ranks which are most numerous deserve most respect.[1]

A democracy of this sort, however, need imply very little personal liberty because it attaches only slight importance to individual pre-eminence. An ethics that identifies morality with rational self-interest at least presumes freedom of private judgment, but an ethics of sentiment, especially if it stresses sentiments that are equally native to all men, need not do so. In the end what it is most certain to inculcate is reverence for the authority of tradition and custom. The morality of the plain man, however much of the good will it may embody, is inevitably the morality of his time and place. Its standards are rather those of the group than of the individual, and such a morality always teaches submission to the group and conformity to its customary duties. This being so, there is no assurance that they will turn out in the end to be democratic at all. It was more or less an accident that Rousseau put a high estimate on a simple society with no marked differences of rank. The virtues of loyalty and patriotism, which he chiefly admired, and the glory of finding happiness in the welfare of the group, need have no special reference to democracy. It is hard to say whether Rousseau belonged more truly to Jacobin republicanism or to a conservative reaction.

MAN AS CITIZEN

It is convenient to distinguish between two periods of Rousseau's political writing, a formative period dated about 1754–55, in which

[1] Quoted by Morley, *Rousseau* (1886), Vol. II, pp. 226 f.

he gave shape to his own ideas in opposition to Diderot,[1] and the period in which the final version of the *Social Contract* was prepared for publication in 1762. Many critics have felt a fundamental logical discrepancy between the works of these two periods, described by Vaughan as "the defiant individualism of the *Discours sur l'inégalité*" and "the equally defiant collectivism of the *Contrat social*." It is certain that Rousseau himself felt no such opposition; in the *Confessions* he says that "every strong idea in the *Social Contract* had been before published in the *Discourse on Inequality*." In general Rousseau's opinion was correct, though it is also true that incompatible ideas abound throughout his writings. Much that seems like "defiant individualism" persisted in the *Social Contract*, and none of his works can be reduced to a consistent system. The difference between the earlier works and the *Social Contract* is merely that in the former he was writing himself free from an uncongenial social philosophy and in the latter he was expressing, as clearly as he could, a counter-philosophy of his own.

The social philosophy from which Rousseau had to disentangle himself was the systematic individualism which, by the time he wrote, was attributed to Locke. It held that the value of any social group consists in the happiness or self-satisfaction which it produces for its members, and especially in the protection of their inherent right to own and enjoy property. Human beings are led to co-operate by enlightened self-interest and a nice calculation of individual advantage. A community is essentially utilitarian; in itself it has no value though it protects values; the motive on which it rests is universal selfishness; and it contributes mainly to the comfort and security of its members. Quite rightly Rousseau attributed this philosophy as much to Hobbes as to Locke. Against Hobbes he brought the pertinent objection that the state of war attributed to individual men in a state of nature really belongs to "public persons" or "moral beings called sovereigns."[2] Men fight not as detached individuals but as citizens or subjects.

The writer who did most to release Rousseau from this individualism was Plato. With Rousseau there begins, in fact, a new era of classical influence in political philosophy, which was extended through Hegelianism and which was more genuinely Greek than the pseudo-classicism of the eighteenth century. What Rousseau got from Plato was a general outlook. It included, first, the conviction that political subjection is essentially ethical and only secondarily a matter of law and power. Second and more important, he took from Plato the presumption,

[1] The chief works were the *Discours sur l'inégalité* (1754), the article in the *Encyclopaedia* on "Économie politique" (1755), a suppressed chapter, "De la société générale du genre humain" (I, ii), of the first draft of the *Contrat social*, and several unpublished fragments. The best edition is C. E. Vaughan's *Political Writings of Jean Jacques Rousseau*, 2 vols. (Cambridge, 1915). The published works are translated by G. D. H. Cole, *The Social Contract and Discourses* (Everyman's Library).

[2] The fragment on *L'état de guerre*, Vaughan, Vol. I, p. 293.

implicit in all the philosophy of the city-state, that the community is itself the chief moralizing agency and therefore represents the highest moral value. The philosophy to which Rousseau stood opposed began with fully formed individuals; to them it imputed a full complement of interests and the power to calculate—a desire for happiness, the idea of ownership, the power to communicate with other men, to bargain with them, to make an agreement, and finally to make a government that will give the agreement force. Plato stimulated Rousseau to ask, Where do individuals get all these capacities except from society? Within a society there may be individuality, freedom, self-interest, respect for covenants; outside it there is nothing moral. From it individuals get their mental and moral faculties and by it they become human; the fundamental moral category is not man but citizen.

To this conclusion Rousseau was led also by his own citizenship in the city-state of Geneva. It is difficult to see in his early life that this ever exerted any tangible influence on him while he was subject to it, but afterwards he rationalized and idealized it. This may be seen in the dedication which he placed before the *Discourse on Inequality*, written at a time when he planned to make Geneva his home. This idealization of the city-state was one reason why his political philosophy never articulated closely with contemporary politics. In formulating a theory he never envisaged a state on a national scale, and in writing on concrete questions, his views had little to do with his theories. Rousseau himself was in no sense a nationalist, though his philosophy contributed to nationalism. By reviving the intimacy of feeling and the reverence connoted by citizenship in the city-state, he made it available, at least as an emotional colouring, to citizenship in the national state. The cosmopolitanism implied by natural law he chose to regard as merely a pretext for evading the duties of a citizen.

During the two years in which his political ideas were forming, Rousseau was largely concerned with the meaning of conventional expressions such as the "state of nature" or the "natural man," which were obviously incompatible with his own idea that men have no moral qualities outside a community. A difference of opinion on this subject with Diderot began the lifelong quarrel between the two men. The volume of the *Encyclopaedia* published in 1755 contained an article on Natural Law by Diderot and one on Political Economy by Rousseau: about the same time he wrote a criticism of Diderot's article for the *Social Contract* but later excluded it from the final draft.

Diderot's article was a rhetorical flourish with conventional ideas: Man is rational; his rationality subjects him to the law of natural equity; the test of morals and government is the general will of the race, embodied in the law and practices of civilized peoples. Its very conventionality made it the proper object for Rousseau's attack; he dissented from every article of the accepted creed. In the first place,

the society of the whole human race is a "veritable chimera"; a race is not a society because mere likeness of kind creates no real union, while a society is a "moral person" arising from a real bond (*liaison*) uniting its members. A society must have common possessions, such as a common language and a common interest and wellbeing, which is not a sum of private goods but the source of them. The human race as a whole has nothing of this sort in common. In the second place, it is absolutely false that reason by itself would ever bring men together, if they were concerned only with their individual happiness, as the conventional theory supposes. The whole argument is fictitious because all our ideas, even of self-interest, are drawn from the communities in which we live. Self-interest is not more natural or more innate than the social needs that draw men together in communities. Finally, if there is any idea of a general human family, it arises from the little communities in which men live instinctively; an international community is the end and not the beginning.

> We conceive a general society according to our particular societies; the establishment of little states makes us think of large ones; and we begin properly to become men only after we have become citizens. This shows what we should think of those pretended cosmopolitans who, in justifying their love for their country by their love for the human race, make a boast of loving all the world in order to enjoy the privilege of loving no one.[1]

NATURE AND THE SIMPLE LIFE

The argument of the *Discourse on Inequality*, which was published at about the same time, was seriously clouded by the arresting attack on private property for which the work has been mainly known. Obviously if there are no rights of man, property is not one; in his *Plan for a Constitution of Corsica* Rousseau even said that the state ought to be the sole owner. But certainly he was not a communist. In the article on Political Economy he referred to property as "the most sacred of all the rights of citizenship" and even in the *Discourse* itself he treated it as a quite indispensable social right. It is true that the half-century before the Revolution produced in France schemes of utopian communism which bear about the same relation to middle-class radicalism as Winstanley's communism to the political doctrine of the English Levellers. Meslier before Rousseau and Mably and Morelly after him sketched "natural" schemes of society in which goods, especially land, were to be owned in common and the produce shared, and in the revolutionary era itself Maréchal's *Manifesto of Equals* and Babeuf's communist uprising in 1796 carried on the idea that political freedom is a superficial remedy without economic equality. To this body of communist ideas Rousseau's attack on private

[1] Vaughan, Vol. I, p. 453.

property in the *Discourse* may be said vaguely to belong. But he had no serious idea of abolishing property and no very definite idea about its place in the community. What Rousseau contributed to socialism, utopian or other, was the much more general idea that all rights, including those of property, are rights within the community and not against it.

As a whole the *Discourse* was meant to deal with the same question as the chapter in criticism of Diderot's article on Natural Law. It was this which Rousseau put into the Preface as the problem of the book: What really is natural and what is artificial in human nature? In general terms his answer is that, over and above self-interest, men have an innate revulsion against suffering in others. The common basis of sociability is not reason but feeling; except to the perverted man suffering anywhere is directly painful. In this sense men are "naturally" good. The calculating egoist of the theories exists not in nature but only in a perverted society. The philosophers "know very well what a citizen of London or Paris is but not what a man is."[1] What then is the truly natural man? The answer cannot be drawn from history because if natural men ever existed, they certainly do not now. If one tries to make a hypothetical picture, the answer is certain: Natural man was an animal whose behaviour was purely instinctive; any thought whatever is "depraved." He wholly lacked language, unless in the form of instinctive cries, and without language any general idea is impossible. Consequently the natural man was neither moral nor vicious. He was not unhappy but neither was he happy. Obviously he had no property, for property resulted from ideas, foreseen wants, knowledge, industry, which were not intrinsically natural but implied language, thought, and society. Selfishness, taste, regard for the opinion of others, the arts, war, slavery, vice, conjugal and paternal affection, all exist in men only as they are sociable beings who live together in larger or smaller groups.

This argument was quite general: it proved merely that the natural egoist is a fiction, that some kind of community is inevitable, and that no society is purely instinctive. Rousseau intertwined with it, however, another argument that was logically irrelevant. His early writings far more than the *Social Contract* are filled with a kind of pessimism, probably the result of irritation induced by his residence in Paris, which made him believe that existing French society was little more than an instrument of exploitation. Grinding poverty in one class contributes merely to parasitic luxury in another; the arts fling "garlands of flowers over men's chains" because they are beyond the reach of the masses on whose labour they are supported; and economic exploitation issues naturally in political despotism. Against this perverted society Rousseau chose to set an idealized simple society which is in a just mean

[1] *L'état de guerre*, Vaughan, Vol. I, p. 307.

between primitive indolence and civilized egoism. Evidently the conclusion that existing societies are perverted and should be simplified has nothing to do with the prior conclusion that some kind of society is the only moralizing force in human life. If society as such were a perversion, the conclusion would be that it ought to be abolished: Rousseau has been accused of timidity for not drawing it. In fact, this was not his conclusion. The simple society that he chose to admire is very far removed, as he was at pains to show, from natural instinct. For this reason it is not very clear just what practical consequences, if any, do flow from his criticism of the state of nature. It all depends on the nature of the society in which the individual is to be imbedded. A national state, a militant working-class, or ultramontane Catholicism might all claim, as easily as the city-state that Rousseau affected, to represent the ultimate value to which men ought to give their loyalty. The implications can be conservative quite as easily as radical.

Of the early works that which stated Rousseau's political theory most clearly is the article on Political Economy in the fifth volume of the *Encyclopaedia*. It was evidently in some sense a companion-piece to Diderot's article on Natural Law in the same volume. Rousseau's most characteristic political idea, the "general will," appeared in both, and it is uncertain whether he or Diderot invented the term. Certainly Rousseau made it his own. His article touched briefly on most of the ideas developed later in the *Social Contract*—the theory that a community has a corporate personality or *moi commun*, the organic analogy for a social group, the doctrine that the general will of the corporate self sets the moral standards valid for its members, and the implied reduction of government to a mere agent of the general will. The general principle behind the argument is that already mentioned, that mere likeness of kind does not make men into a society but only a psychological or spiritual bond—"the reciprocal sensibility and internal correspondence of all the parts"—analogous to the vital principle of a living organism.

> The body politic, therefore, is also a moral being possessed of a will; and this general will, which tends always to the preservation and welfare of the whole and of every part, and is the source of the laws, constitutes for all the members of the state, in their relations to one another and to it, the rule of what is just or unjust.[1]

The tendency to form societies is a universal trait; wherever individuals have a common interest they form a society, permanent or transient, and every society has a general will which regulates the conduct of its members. Larger societies are composed not directly of individuals but of smaller societies, and each more inclusive society sets the duties of the smaller societies that compose it. Thus Rousseau still left standing the "great society," the human race, of which natural

[1] Vaughan, Vol. I, pp. 241 f.; Eng. trans. by G. D. H. Cole, p. 253.

law is the general will, but as a society rather than as a race. The bonds of this society, however, are obviously weak. In effect Rousseau sets up patriotism as the supreme virtue and the source of all other virtues.

> It is certain that the greatest miracles of virtue have been produced by patriotism: this fine and lively feeling, which gives to the force of self-love all the beauty of virtue, lends it an energy which, without disfiguring it, makes it the most heroic of all passions.[1]

Human beings must be made citizens before they can be made men, but in order that they may be citizens, governments must give liberty under the law, must provide for material welfare and remove gross inequality in the distribution of wealth, and must create a system of public education by which children are "accustomed to regard their individuality only in its relation to the body of the state." The general problem of a political philosophy Rousseau stated almost in the form of the paradox with which he opened the *Social Contract*:

> By what inconceivable art has a means been found of making men free by making them subject?[2]

THE GENERAL WILL

The *Social Contract* was published in 1762. By Rousseau's account it was a part of a much larger work which he had projected but was not able to finish. The plan of this larger work is unknown, but in view of the arrangement of subject-matter in the *Social Contract* itself, he probably began by stating abstractedly his theory of the general will and then went on to make observations at large about history and politics. The latter part of the book as published retains traces of the reading of Montesquieu, as did also Rousseau's published plan for a constitution of Corsica and his *Considérations sur le gouvernement de Pologne*. The *Social Contract*, in its theoretical part, is excessively abstract; when Rousseau writes on current questions it is usually difficult to see what the theory has to do with his proposals or the proposals with the theory. It is safe to say, therefore, that nothing was lost when he abandoned his more extended work. The general will and the criticism of natural right comprised everything of importance that he had to say. The practical uses to which that theory might be put were various, and Rousseau had neither the knowledge nor the patience to explore them. His belief that a small community like the city-state is the best example of the general will made it impossible for him to discuss contemporary politics with much point.

The development of the theory of the general will in the *Social Contract* was involved in paradoxes, partly because of the cloudiness of Rousseau's ideas but partly, it seems, because he had a rhetorician's

[1] Vaughan, Vol. I, p. 251; Eng. trans. by G. D. H. Cole, p. 263.
[2] *Ibid.*, Vol. I, p. 245; Eng. trans. by G. D. H. Cole, p. 256.

liking for paradox. Manifestly, in view of his criticism of the natural man, he ought to have avoided the notion of contract altogether as both meaningless and misleading. Seemingly he retained the phrase because he liked its popular appeal, and in order not to make the inconsistency too glaring, he deleted the criticism of the state of nature which he had written against Diderot. Not content with this complication, after introducing the contract he explained it away, so far as any definite contractual meaning was concerned. In the first place, his contract has nothing to do with the rights and powers of government, since the latter is merely the people's agent and is so devoid of independent power that it cannot be the subject of a contract. In the second place, the imaginary act by which a society is produced is not even remotely like a contract, because the rights and liberties of individuals have no existence at all except as they are already members of the group. Rousseau's whole argument depended upon the fact that a community of citizens is unique and coeval with its members; they neither make it nor have rights against it. It is an "association" not an "aggregation," a moral and collective personality. The word contract was about as misleading as any that Rousseau could have chosen.

> The social order is a sacred right which is the basis of all other rights.[1]
>
> The problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before.
>
> Each of us puts his person and all his power in common under the supreme direction of the general will, and, in our corporate capacity, we receive each member as an indivisible part of the whole.[2]

Another paradox lay in the fact that Rousseau could not persuade himself to give over trying to prove that men individually gain more by being members of society than they would by remaining isolated. This is implied in the famous sentence with which the *Social Contract* opened and in which he proposed to explain what can make the bondage of society "legitimate." This way of putting the question implied that Rousseau was going to show, as Holbach or Helvetius might, that being a member of society is on the whole a good bargain. Of course he was going to do nothing of the sort, if the state of nature was a chimera and all the values by which the bargain might be judged were non-existent except in a society. Similarly, the assertion that man "is everywhere in chains" implied that society is a burden for which individuals need to be compensated, whereas Rousseau was going to argue that they are not human at all except as members of a community. A bad community might impose chains on its members, but Rousseau was logically bound to hold that it did so because it

[1] *Social Contract*, I, i. [2] *Ibid.*, I, vi.

was bad and not because it was a community. The question, what justifies the existence of communities, should have been treated by him as nonsensical. The question, what makes one community better than another, is of course legitimate; it would involve a comparison of communities in terms of the social and individual interests that each conserves, but not a comparison between a community and its absence. Again, an individual might be better off in one community than in another, but the question whether he would be better or worse off in no community ought to have been ruled out as unmeaning. For it was society, he said, that "substituted justice for instinct and gave men's actions the morality they had formerly lacked." "Instead of a stupid and unimaginative animal, it made him an intelligent being and a man." Apart from society there would be no scale of values in terms of which to judge wellbeing.

The general will, therefore, represented a unique fact about a community, namely, that it has a collective good which is not the same thing as the private interests of its members. In some sense it lives its own life, fulfils its own destiny, and suffers its own fate. In accordance with the analogy of an organism, which Rousseau had developed at some length in the article on Political Economy, it may be said to have a will of its own, the "general will" (*volonté générale*):

> If the state is a moral person whose life is in the union of its members, and if the most important of its cares is the care for its own preservation, it must have a universal and compelling force, in order to move and dispose each part as may be most advantageous to the whole.[1]

The rights of individuals, such as liberty, equality, and property, which natural law attributed to men as such, are really the rights of citizens. Men become equal, as Rousseau says, "by convention and legal right," not, as Hobbes had said, because their physical power is substantially equal.

> The right which each individual has to his own estate is always subordinate to the right which the community has over all.[2]

In the community men first gain civil liberty, which is a moral right and is not merely the "natural liberty" which by a figure of speech might be attributed to a solitary animal.

THE PARADOX OF FREEDOM

So far this is perfectly true and a fair reply to the extravagances of contemporary speculation about the state of nature. Just what it entails, however, about the rights of men in society is far from obvious, and Rousseau's account of the matter sometimes contradicted itself within the limits of a single page. For example:

[1] *Social Contract*, II, iv. [2] *Ibid.*, I, ix.

> The social compact gives the body politic absolute power over all its members.
>
> Each man alienates, I admit, by the social compact, only such part of his powers, goods and liberty as it is important for the community to control; but it must also be granted that the sovereign is sole judge of what is important.
>
> But the sovereign, for its part, cannot impose upon its subjects any fetters that are useless to the community.
>
> We can see from this that the sovereign power, absolute, sacred, and inviolable as it is, does not and cannot exceed the limits of general conventions, and that every man may dispose at will of such goods and liberty as these conventions leave him.[1]

In fact, Rousseau moved back and forth at will between his own theory of the general will and the indefeasible individual rights which ostensibly he had abandoned. In itself the mere fact that rights of any sort require social recognition and can be defended only in terms of a common good signifies nothing about what individual rights a well-regulated community will give to its members. Since Rousseau believed as a matter of course that social wellbeing itself dictates some liberty of individual choice and action, wherever he meets this sort of case he sets it down as a limitation upon the general will. Logically it is nothing of the sort, if liberty itself is one of the things that the general good requires. On the other hand, Rousseau was quite capable of arguing that because there are no indefeasible rights in defiance of the general good, there are no individual rights at all. This again was a logical confusion, unless one argues, as Rousseau certainly did not mean to do, that all liberty is contrary to the social good. The truth is that the general will is so abstract—asserting merely that rights are social—that it justified no inference at all about the extent to which individuals might wisely be left to their own devices within society. At the same time the general position was of course valid against a theory of natural rights that left social wellbeing entirely out of account.

This confusion in Rousseau's argument gave rise to another paradox which is especially important and especially irritating, the paradox of freedom. He began by assuming a burden that was incumbent on egoistic theories but not upon him, provided he meant really to reject egoism, namely, to prove that in society a man "may still obey himself alone." Consequently he undertook nothing less than to show that real coercion never occurs in society and that what is taken to be coercion is only apparently so, a paradox of the worst sort. Even a criminal wills his own punishment!

> In order then that the social compact may not be an empty formula, it tacitly includes the undertaking . . . that whoever refuses to obey the general will shall be compelled to do so by the whole body. This means nothing less than that he will be forced to be free. . . . This alone legitimizes civil undertakings, which without it, would be absurd, tyrannical, and liable to the most frightful abuses.[2]

[1] *Social Contract*, II, iv.

[2] *Ibid.*, I, vii.

In other words, coercion is not really coercion because when a man individually wants something different from what the social order gives him, he is merely capricious and does not rightly know his own good or his own desires.

This kind of argument, in Rousseau and after him in Hegel, was a dangerous experiment in juggling with ambiguities. Liberty had become what Thorstein Veblen called an "honorific" word, the name for a sentiment with which even attacks on liberty wished to be baptized. It was perfectly legitimate to point out that some liberties are not good, that liberty in one direction may entail loss of liberty in another, or that there are other political values which in some circumstances are more highly esteemed than liberty. Straining language to show that restricting liberty is really increasing it, and that coercion is not really coercion, merely made the vague language of politics still vaguer. But this was not the worst of it. What was almost inevitably implied was that a man whose moral convictions are against those commonly held in his community is merely capricious and ought to be suppressed. This was perhaps not a legitimate inference from the abstract theory of the general will, because freedom of conscience really is a social and not merely an individual good. But in every concrete situation the general will has to be identified with some body of actual opinion, and moral intuitionism usually means that morality is identified with standards which are generally accepted. Forcing a man to be free is a euphemism for making him blindly obedient to the mass or the strongest party. Robespierre made the inevitable application when he said of the Jacobins, "Our will is the general will."

> They say that terrorism is the resort of despotic government. Is our government then like despotism? Yes, as the sword that flashes in the hand of the hero of liberty is like that with which the satellites of tyranny are armed . . . The government of the Revolution is the despotism of liberty against tyranny.[1]

The general will, as Rousseau said over and over again, is always right. This is merely a truism, because the general will stands for the social good, which is itself the standard of right. What is not right is merely not the general will. But how does this absolute right stand in relation to the many and possibly conflicting judgments about it? Who is entitled to decide what is right? Rousseau's attempts to answer these questions produced a variety of contradictions and evasions. Sometimes he said that the general will deals only with general questions and not with particular persons or actions, thus leaving the application to private judgment, but this conflicted with his assertion that the general will itself determines the sphere of private judgment.

[1] To the National Convention, February 5, 1794; *Moniteur universel*, 19 pluviôse, l'an 2, p. 562.

Sometimes he tried to make the general will equivalent to decision by a majority, but this would imply that the majority is always right, which he certainly did not believe. Sometimes he spoke as if the general will registered itself automatically by making differences of opinion cancel each other. This opinion cannot be refuted but neither can it be proved. It amounted to saying that communities—states or nations—have an inscrutable faculty for discerning their wellbeing and proper destiny. Rousseau originated the romantic cult of the group, and this was the fundamental difference between his social philosophy and the individualism from which he revolted. The rationalist centred his scheme of values in the culture of the individual, in intellectual enlightenment and independence of judgment and enterprise. Rousseau's philosophy emphasized the aggrandizement of a group, the satisfactions of participation, and the cultivation of the non-rational.

In Rousseau's intention the theory of the general will greatly diminished the importance of government. Sovereignty belongs only to the people as a corporate body, while government is merely an agent having delegated powers which can be withdrawn or modified as the will of the people dictates. Government has no vested right whatever, such as Locke's theory of the contract had left to it, but has merely the status of a committee. Rousseau conceived this to exclude any form of representative government, since the sovereignty of the people cannot be represented. The only free government is therefore a direct democracy in which the citizens can actually be present in town-meeting. Just why the general will should be restricted to this one form of expression is not very clear, apart from Rousseau's admiration for the city-state. Doubtless it was his belief that the theory of popular sovereignty diminished the power of the executive, but this was an illusion. For though 'the people' have all power and all moral right and wisdom, a corporate body cannot as such express its will or execute it. The more the community is exalted the more authority its spokesmen have, whether they are called representatives or not. Even parties and factions, which Rousseau thoroughly detested, are more likely to be strengthened than weakened by the idea of corporate sovereignty. A well-regimented minority, whose leaders are persuaded of their own inspiration and whose members "think with their blood," has proved an almost perfect organ for the general will.

ROUSSEAU AND NATIONALISM

Rousseau's political philosophy was so vague that it can hardly be said to point in any specific direction. In the age of the Revolution probably Robespierre and the Jacobins owed most to him, for his theory of popular sovereignty and his denial of any vested right in government made, as Gierke said, a kind of doctrine of "permanent

revolution" which was very suitable to the purposes of a radical democratic party. Moreover, there was really nothing in the conception of the general will that required it to be shared consciously by the whole people or to be expressed only in a popular assembly. Rousseau's enthusiasm for the democratic city-state was an anachronism. The small community with a prevailingly rural economy, loosely federated with other similar communities, which would perhaps have represented his ideals most literally, had no importance in Europe and only a passing importance in America. Though Rousseau believed that free citizenship was impossible in any form of larger state, it was inevitable under the circumstances that the sentiment which he aroused should result mainly in idealizing national patriotism. Thus in his essay on Poland he might advise a policy of decentralization, but the only effect of the work must lie in its appeal to Polish nationalism. On the other hand, he persistently libelled the humanitarian and cosmopolitan ideals of the Enlightenment as a mere lack of moral principle.

> To-day there are no longer Frenchmen, Germans, Spaniards, or even Englishmen; there are only Europeans. . . . They are at home wherever there is money to steal or women to seduce.[1]

The net effect was a very uncritical adaptation of the ideal of citizenship as it had been in a city-state to the modern national state, which is an almost wholly different kind of social and political unit. Thus the state was idealized as including all the values of national civilization, much as the Greek city had overlapped nearly all phases of Greek life, though in fact no modern state did anything of the sort. Thus without being himself a nationalist, Rousseau helped to recast the ancient ideal of citizenship in a form such that national sentiment could appropriate it.

Nationalism, however, was not a simple force acting in a single direction or with a single motive. It might mean democracy and the rights of man, as in general it did in the age of the Revolution, but it might mean also an alliance between the landowning gentry and the new middle-class aristocracy of wealth. It might sweep away the remnants of feudal institutions only to build in their place new institutions that would rely no less heavily on traditional loyalties and the subordination of classes. Inevitably nationalism in France and England, where there was no doubt of political union, would be quite different from nationalism in Germany, where the aspiration for a national government commensurate with the unity of German culture would soon overtop all other questions. Rousseau's idealizing of the moral feelings of the plain man found an immediate echo in the ethics of Kant. Its full significance, especially his idealizing of the collective will and of participation in the common life, appeared in

[1] *Considérations sur le gouvernement de Pologne*, ch. iii; Vaughan, Vol. II, p. 432.

German philosophy with the idealism of Hegel. Rousseau's collectivism, however, required a drastic revaluation of custom, tradition, and the accumulating heritage of the national culture, without which the general will was nothing but an empty formula. This, in turn, amounted to a thoroughgoing revolution in philosophical values. Since the time of Descartes custom and reason had by common consent been set in contrast to one another. The proper work of reason had been to release men from the bondage of authority and tradition, in order that they might be free to follow the light of nature. This was the meaning of the whole imposing system of natural law. This the sentimentalism of Rousseau tacitly set aside. The idealism of Hegel tried to weave reason and tradition into a single unit—the expanding culture of a national spirit or consciousness. In effect reason was to be bent to the service of custom, tradition, and authority, with a corresponding emphasis on the values of stability, national unity, and continuity of development.

Hegel's philosophy conceived the general will as the spirit of the nation, expanding and embodying itself in a national culture and creating its organs in an historical constitution. Apart from the incoherence of Rousseau's presentation of it, the obvious defect of the general will as he left it was the extreme abstractness of the conception. It was the mere idea or form of a community, as Kant's categorical imperative was the mere form of a moral will. Nothing but historical accident, so to speak, attached it to the sense of membership in a nation and the idealizing of national citizenship. Rousseau's position as an alien in French national life, his moral incapacity to ally himself with any social cause, and the state of French politics when he wrote, all conspired to prevent him from giving to the general will any concrete embodiment. This want, however, was at once supplied by Edmund Burke. For Burke the conventions of the constitution, the traditional rights and duties of Englishmen, the living presence of a rich national culture growing from generation to generation were not abstractions but real existences, suffused with the warmth of ardent patriotism and the glow of moral sentiment. In the later years of his life the shock and horror of the French Revolution forced him to break the habit of a lifetime and to state in general terms the philosophy upon which he had always acted. The result was at once a contrast and a supplement to Rousseau. In Burke the corporate life of England became a conscious reality. The general will was released from temporary bondage to Jacobinism and made a factor in conservative nationalism.

Throughout the eighteenth century the tradition of philosophical rationalism and the system of natural law which was its most typical creation was in a state of gradual decadence. Rousseau's denial of it was largely a matter of feeling; he lacked the intellectual penetration

and the steadiness of intellectual application to criticize the system in place of which he set up the autonomy of sentiment. But this criticism already existed, the work of David Hume. From the time of Locke, the growth of the empirical philosophy and the increasingly empirical practice of social studies had caused a steady infiltration of incongruous ideas into the system of natural law. Perhaps it would be truer to say that the system of natural law itself had included from the start, under the name of reason, a variety of factors which for the sake of clearness needed to be discriminated and which grew steadily more incongruous as social studies advanced. The breaking apart of the old system was due mainly to the analytic genius of Hume. His negative limitation of reason was really a logical precondition both of the value which Rousseau attributed to moral sentiment and of that which Burke attributed to a growing national tradition.

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CHAPTER XXIX

CONVENTION AND TRADITION: HUME AND BURKE

THE philosophy of Rousseau attacked only one limited segment of the system of natural law, the artificiality of seeing in society merely an agent to secure individual goods and in human nature merely a capacity to calculate advantages. Against this he set a single counter-proposition, that the core of healthy personality consists of a few massive feelings which have little to do with intellectual power but which are of a sort to bind men together in communities, so that the wellbeing of the community makes up the most significant part even of the private good. This proposition he can hardly be said to have defended; he enunciated it rather as a moral intuition, the direct insight of an uncorrupted nature, and attributed to the philosophers as a fault, and to their unmeasured use of intellectual criticism, the selfishness and lack of public spirit which he saw in European society. Had Rousseau stood alone, the imposing system of natural law, elaborated in a century and a half of philosophical development, would hardly have fallen before an attack so ill-directed and leading to a result so uncertain in its applications as the general will. But Rousseau did not stand alone. The acclaim which he won with a body of ideas neither numerous nor well-digested, and which he stated with a sentimentality that was tawdry as often as it was moving, showed that his public was already prepared, emotionally at least, to respond to a new kind of moral appeal. Intellectually, also, the system of natural law was already inadequate, in the sense that it supplied no rational apparatus adequate to the social studies which were being projected and that its dogmatic claim to self-evidence was little better than a boast. It was living in France mainly on its utility as the revolutionary solvent of an antiquated political and social system.

In England this preservative did not exist. The defence of revolution ended with Locke, until the French Revolution itself produced a reverberation of natural rights, and the temper of English writers throughout the eighteenth century, in respect to both politics and religion, was markedly conservative. In a country where both church and government, though admittedly subject to serious abuses, served well the interests of the classes that were politically vocal, the system of natural law had lost its immediate practical utility. Moreover, English philosophy in the half-century after the publication of Locke's

Essay developed almost exclusively on empirical lines, stressing the natural history of ideas and their derivation from the senses, as Locke himself had suggested. English ethical writing followed the same course. The idea of a deductive ethics starting from self-evident moral laws, which Locke had retained, soon became antiquated. Until Bentham English utilitarianism lacked the radical and reformatory purposes that Helvetius gave the theory in France, but it was systematically clearer because it tried consciously to eliminate incongruous ideas like natural justice and natural right. Even in economics, which remained the stronghold of natural law well into the nineteenth century, Adam Smith was on the whole less devoted to a deductive method than the classical economists after him, probably because the latter were more influenced than Smith by the French Physiocrats. Possibly his economics might have been still more systematically empirical if he had followed more closely the economic essays of his friend Hume.

HUME: REASON, FACT, AND VALUE

This criticism and gradual elimination of the system of natural law culminated in Hume's *Treatise of Human Nature*, published in 1739–40. This work occupies a crucial position in the history of modern philosophy and its importance is not even mainly in the field of political philosophy. At the same time, the general philosophical position that Hume developed had a profound bearing upon all branches of social theory. What Hume supplied was a penetrating logical analysis which, if accepted, destroyed all the pretensions of natural law to scientific validity. In addition he extended this critical result to specific applications of natural law in religion, ethics, and politics. At least the main principles of Hume's analysis must be stated because they affected the whole future course of social theory. The technicalities in which he formulated his argument and which are now obsolete may be neglected.

Hume undertook to analyse the conception of reason, as this term was customarily used in the systems of natural law, to show that under this term there had been uncritically combined and confused three factors or processes which are quite different in their meaning. The effect of this confusion was to describe as necessary truths, or unchangeable laws of nature and of morality, propositions which can make no claim to such absolute certainty. First, Hume undertook to say what can rightly be called reason in this necessary and inevitable sense. There are, he admitted, certain "comparisons of ideas" which yield truths of this kind. They are to be found, he thought, only in limited parts of mathematics and they have definite peculiarities. They are what would now be called formal implications and they state that a conclusion follows if a premise is taken for granted.

Nothing need be known about the truth of the premise, because all that is inferred is that if one proposition is true, then another proposition also must be true. As Hume put it, not very accurately, the relationship is merely between ideas; the actual facts do not matter. Because of the direction that his interests took Hume gave less importance than was deserved to this kind of mathematical or formal truth. What he was chiefly concerned to do was to distinguish it from other logical operations with which it was confused, and also to show that this was the precise and proper meaning of rational or necessary truth.

It clearly follows from what has been said that no "comparison of ideas" can prove a matter of fact, and also that relationships between matters of fact are never necessary in the strict logical or rational sense just mentioned. This was the point of Hume's famous analysis of the relation between cause and effect. It is always possible to assume the contrary of any matter of fact, and when two facts or events are found to be related as cause and effect, all that can be really known about them is that they do actually occur together with a certain degree of regularity. Apart from the experience of actually finding them together, it would be impossible to infer the one from the other. Hence the so-called necessary connection between causes and effects is a fictitious idea, provided the term necessary is used in the proper logical sense that it has in mathematics: in cause and effect there is only an empirical correlation. It would follow from this analysis of causal relations and matters of fact that the empirical sciences, which deal with events that actually happen and the correlations that actually occur between them, are fundamentally different from mathematics or from deductive reasoning which merely shows that one proposition follows from another.

In the third place, the word reason or reasonable is applied to human conduct. In particular the law of nature always professed to show that there are rational principles of right or justice or liberty which can be shown to be necessary and unescapable. This, Hume concluded, was still another confusion. For in these cases, where a way of acting is said to be right or good, the reference is not to reason but to some human inclination, or desire, or 'propensity.' Reason in itself dictates no way of acting. It may show, by adducing knowledge of causes and effects, that the result of acting in a certain way will be so and so; the question will still remain whether, when the reasoning is finished, the result is acceptable to human inclination or not. Reason is the guide of conduct only in the sense that it shows what means will reach a desired end or how a disagreeable result can be avoided. The pleasantness of the result is in itself neither reasonable nor unreasonable. As Hume put it, "reason is and ought only to be the slave of the passions and can never pretend to any other office than to serve and

obey them." From this analysis it follows that ethics or politics or any sort of social studies where judgments of value have to be taken into account are different both from deductive and from purely causal or factual sciences.

There are then three fundamentally different operations which have all been confused under the name of reason but which Hume proposed to distinguish; there is, first, deduction or reason in the strict sense; second, there is the discovery of empirical or causal relationships; and third, there is the ascription of a value, as when one speaks of right or justice or utility. If these three operations are carefully distinguished the whole alleged rationality of natural law falls to pieces. Since the two latter are not strictly rational, they both contain factors that cannot be proved. These factors Hume called "conventions," and a large part of his philosophy was devoted to showing the presence of such factors in the empirical and social sciences. These conventions are unescapable, in the sense that both empirical inference and practical common sense require something of the sort. They seem valid because men habitually use them and they are useful in the sense that by means of them more or less stable rules of action are made. But they cannot be shown to be necessary; the contrary could always be assumed. They proceed less from reason than from imagination or from "a propensity to feign," that is, to assume more regularity in nature or society than is certain. In the empirical sciences the law of cause and effect is an example. All the alleged general proofs of it are circular, while its special applications lead at most only to conclusions that are more or less probable. Psychologically, Hume thinks, it is merely a habit, and he can see no reason why nature should conform to human habits, yet without it there is no principle for connecting matters of fact. Similarly, as he proposed to show, social values like justice or liberty also involve conventions which must be referred for their authority to utility, or ultimately to their relation to human motives and propensities to action.

THE DESTRUCTION OF NATURAL LAW

Starting from this general philosophical position, Hume applied his criticism to demolishing various branches of the system of natural law. He did not cover the ground completely, and it was long before the full implications of his argument were seen, but he attacked at least three great branches of the system: natural or rational religion, rational ethics, and the contractual and consensual theory of politics. The very notion of a rational religion, he argued, must be fictitious because, since any deductive proof of a matter of fact is impossible, the existence of God must be indemonstrable. Indeed, the conclusion is more general: a rational metaphysics purporting to show the necessary existence of anything is impossible. The so-called truths of religion,

however, lack even the practical reliability of scientific generalizations; they belong purely to the region of feeling. Hence religion may have a 'natural history,' that is, a psychological or anthropological explanation of its beliefs and practices, but there can be no question of its truth. Similarly, in morals and politics, since values depend upon human propensities to action, it is impossible that reason by itself should create any obligation. Consequently virtue is merely a quality or action of mind that is generally approved. Like religion it can have a natural history but the force of moral obligation depends upon the acceptance of the propensities, the wants, the motives to action that give rise to it. No other validity is possible for it.

Much of Hume's ethical criticism, however, was directed against the prevailing form of utilitarianism which tried to derive all motives from the pursuit of pleasure and the avoidance of pain. His objection to this was empirical; he believed, of course rightly, that it oversimplified motives to the point of falsification. Human nature is not so simple as to have only a single propensity, and many apparently primitive impulses, he thought, have no obvious relation to pleasure. They may be mainly benevolent, as parental affection is within a limited range, or they may be on their face neither selfish nor benevolent. Human nature has to be taken as it is, and the prevailing prejudice that selfish motives are somehow reasonable is part of the same fallacy that made the rationalists think that justice is reasonable. Hume's view of human nature excluded the excessive amount of calculation and foresight that contemporary moralists of all schools were accustomed to impute to it. Men are not, he believed, very calculating in pursuing either their self-interest or anything else. They are only foresighted when their feelings and impulses are not directly engaged, but impulse interferes with self-interest as often as with benevolence. Hume's form of utilitarianism set no special value on egoism and made no undue claims on human intelligence. In this respect it had more in common with that of John Stuart Mill than with that of Bentham, who preferred the simpler but less tenable picture of human nature adopted by the French utilitarians.

Hume's criticism of the theory of consent—that political obligation is binding only because it is accepted voluntarily—was slightly complicated by the fact that he raised no objections to it on historical grounds. On the contrary, he weakened the theory by treating it as nothing but hypothetical history. Like Burke later he was willing to concede that possibly, in the remote past, the first primitive society might have been formed by agreement. Even if this were true it would have nothing to do with present societies. For if the obligation of civic obedience be derived from the obligation to keep an agreement, it is still pertinent to ask why the latter is binding. Empirically the two things are different: no government actually asks its subjects to consent

or fails to distinguish between political subjection and the obligation of contract. Among human motives the feeling of loyalty or allegiance to government is as common as the feeling that agreements should be kept. The political world over, absolute governments which do not even do lip-service to the fiction of consent are more common than free governments, and their subjects rarely question their right except when tyranny becomes too oppressive. Finally, the purpose of the two things seems to be different: political allegiance keeps order and preserves peace and security, while the sanctity of contracts mainly creates mutual trust between private persons. Evidently then, Hume argued, the duty of civic obedience and the duty to keep an agreement are different; the one cannot be derived from the other, and even if it could, neither is more obviously binding than the other. Why then should either be binding? Evidently because a stable society in which order is preserved, property protected, and goods exchanged is not possible without them. Both kinds of obligation grow from this single root. If the further question be asked, why men feel obliged to keep order and protect property, the answer is partly that these satisfy motives of tangible self-interest, but also partly that allegiance is a habit enforced by education and consequently as much a part of human nature as any other motive. The members of a society do feel a sense of common interest and they admit the obligations that this is seen to impose.

As to its nature, Hume argued that this common interest is more like language than it is like a promise or a rational truth. It is a body of conventions or rough general rules that have been shown by experience to serve human needs in a general way, though particular instances of their application often work a hardship. For the sake of stability men have to know what they can rely on, and hence rules of some sort are necessary. If they become too inconvenient, men will change them, even by violence if there is no other way, but broadly speaking any rules are better than none and the most that can be hoped is that they will work reasonably well. Obviously they are not eternal verities rooted in nature, but merely standard ways of behaving justified by experience of their consequences and fixed by habit. By and large they preserve a stable social life in accord with men's propensities and interests. Hume distinguished two main bodies of such conventions, those that regulate property, which he called the rules of justice, and those that have to do with the legitimacy of political authority. Justice means in general that the possession of property shall be stable, that it may be transferred by consent, and that agreements shall be binding, rules that are justified simply by the fact that they make property into a stable institution and satisfy the needs that create the interests of property. A legitimate government, as distinguished from usurpation, rests on a similar set of conventional rules that serve to discriminate

legal authority from mere force. Prescription and formal enactment are the most important of these. Hume illustrated the non-rational character of such rules by pointing out that their effects often extend backward in time. The accession of William in 1688 may have been doubtfully legitimate by any standard then applicable, but he becomes legitimate for present judgment merely because his successors have been accepted as such.

THE LOGIC OF SENTIMENT

If the premises of Hume's argument be granted, it can hardly be denied that he made a clean sweep of the whole rationalist philosophy of natural right, of self-evident truths, and of the laws of eternal and immutable morality which were supposed to guarantee the harmony of nature and the order of human society. In place of indefeasible rights or natural justice and liberty there remains merely utility, conceived in terms either of self-interest or social stability, and issuing in certain conventional standards of conduct which on the whole serve human purposes. Such conventions may, of course, be widespread among men and relatively permanent, because human motives are fairly uniform and in their general outlines change slowly, but in no other sense can they be called universal. They are always contingent upon some state of the facts, upon the causal relations of facts to human inclinations, and upon the formulation of workable rules to give scope to these inclinations. The conventions of society may be explained by history or psychology or anthropology but they cannot claim validity in any but the relative sense of being generally convenient and in accord with men's estimate of utility. All the attempts to find in them an eternal fitness or rightness are merely confused ways of saying that they are useful; granted the principle of utility the whole system of natural right can be dispensed with.

The immediate result of this powerful destructive analysis was not at all what Hume must have anticipated. If the criticism stands, the only possible deduction from it is some form of empirical positivism, without metaphysics or religion and without an ethics that claims validity beyond the circumstances of society and the satisfaction of human needs. What happened proved that metaphysics, religion, and ethics, more or less on traditional lines, were stronger than Hume's criticism. There was, indeed, no disposition on the part of competent philosophers to deny that his conclusions were unescapable if the premises were granted, and there was no special effort to revive the system of natural law with its self-evident truths of reason. On the contrary, after the French Revolution and the conservative reaction against it, the philosophers were more likely to believe that the doctrine of individual rights had suffered only its just fate, as being at once

intellectually inept and socially dangerous. But neither had they any desire to stop with Hume's results, which it became the fashion to brand as 'merely negative.' Consequently there was nothing for it but to go behind Hume's chief premise and to deny that he had been right in making a rigid distinction between reason, fact, and value. If these could be fused into a single operation, or if reason could be interpreted as including them all at once, a new logic, a new metaphysics, and a new defence of absolute values might be produced. This was the course that philosophy, under the guidance of Kant and most completely in Hegel's idealism, elected to follow. Whether it achieved a synthesis or only a new confusion is still subject to debate. In any case Hume's positivism had the paradoxical effect of producing an elaborate metaphysics, a religious revival, and a firmer belief in absolute ethical values.

Though Hegel gave the most systematic statement of this new philosophy, he combined ideas that were everywhere prevalent at the end of the eighteenth century—in a new literary valuation of 'sentiment,' in romantic pseudo-medievalism, in the revival of folk-poetry and a new interest in the historical roots of national culture, and in the idea that law and institutions express the inner "spirit of the nation." So far as social philosophy is concerned three factors may be mentioned which, it was hoped, might be fused together in a new synthesis. In the first place, there was a tendency either to depreciate logic (or abstract reason) as compared with sentiment, or to hope that the two might be combined in a higher or profounder logic. Carlyle's sneer at Hume's philosophy, as "a flat continuous thrashing-floor for logic, whereon all questions, from the doctrine of rent to the natural history of religion, are thrashed and sifted with the same mechanical impartiality," was typical. In particular, the moral sentiments and the massive feelings of religious reverence and loyalty to the community that Rousseau had glorified were supposed to embody a deeper wisdom than that of mere logical clarity. In the second place, this respect for sentiment and the community carried with it a new estimate of the value of custom and tradition. Instead of regarding them as the antithesis of reason, the new philosophy preferred to see in them the gradual unfolding of a reason implicit in the consciousness of the race or nation. Hence they are no burden which the enlightened individual must shuffle off but a precious heritage to be guarded and into which it is the high privilege of the individual to be inducted. No one expressed this new valuation of the traditional national culture more clearly than Burke. Finally, this change itself implied a new sense of the meaning of history. In the history of civilization it became the custom to see the gradual unfolding of the divine mind and the divine purpose. Hence the values of social life—its morals, its art and religion, and its cultural achievements—were at

once absolute and relative, absolute in their ultimate significance though relative in any particular historical embodiment. Reason in man is a manifestation of an underlying cosmic spirit which realizes itself gradually in the history of the nations.

BURKE: THE PRESCRIPTIVE CONSTITUTION

To this imposing but romantic philosophical edifice, which reached completion in the idealism of Hegel and with which the nineteenth century proposed to replace the system of natural law, Burke made an important contribution. He more than any other thinker in the eighteenth century approached the political tradition with a sense of religious reverence. He saw in it an oracle which the statesman must consult and a growing repository of the achievements of the race which must be changed only with a due piety towards its inward meaning. There is, indeed, a certain incongruity in putting Hume and Burke together in a single chapter. The cool and rather sardonic clarity of the Scottish philosopher was the antithesis of the ardent imagination and the innate piety of the Irish statesman. Yet in a sense Burke accepted Hume's negations of reason and the law of nature. There is something almost defiant in his concession that society is artificial and not natural, that it is no product of reason alone, that its standards are conventions, and that it depends on obscure instincts and propensities—even on prejudices. But "art is man's nature." These propensities and the society that grows out of them *are* human nature; without them and without the moral codes and institutions in which they issue a creature might be, as Aristotle said, a beast or a god but not a man. Consequently the traditions of a nation's life have a utility not measured by their contribution merely to private convenience or the enjoyment of individual rights. They are the repository of all civilization, the source of religion and morality, and the arbiter even of reason itself. Burke showed precisely, therefore, the reaction that was to follow upon Hume's destruction of the eternal verities of reason and natural law. Sentiment, tradition, and idealized history stepped in to fill the vacancy left by the removal of self-evident rights, and the cult of the community replaced the cult of the individual.

There has been much discussion about the coherence of Burke's political philosophy, especially about the consistency between his Whig principles and his violent reaction against the French Revolution. This reaction destroyed lifelong political associations and friendships, and to his contemporaries it appeared incompatible with his earlier defence of American liberties, his attacks on the king's control over parliament, and his effort to sweep away the vested rights of the East India Company. In truth this was a misconception. The coherence of Burke's political views was never that of a logically constructed

system, but the same conservative principles that actuated his attack on the Revolution ran through everything that he wrote before it. The events in France, it is true, frightened him, unbalanced his judgment, revealed hatreds that had been decently masked, and produced a flood of irresponsible rhetoric in which his impartiality, his judgment of history, and his customary mastery of facts were largely lost. But the Revolution did not produce or even seriously change his ideas. It merely forced him to isolate them from concrete cases and to state them as general propositions. At all times his main political beliefs were the same: that political institutions form a vast and complicated system of prescriptive rights and customary observances, that these practices grow out of the past and adapt themselves in the present with no break in continuity, and that the tradition of the constitution and of society at large ought to be the object of a reverence akin to religion, because it forms the repository of a collective intelligence and civilization. The Revolution made his repudiation of natural rights more violent but not more complete. For convenience in presentation a distinction may be made between Burke's opinions on certain questions specifically English—the nature of the constitution, parliamentary representation, and the value of parties—and generalized statements of theory which were largely called out by the French Revolution.

Burke accepted, as his loyalty to Whig principles required, the theory transmitted from Locke, that the constitution is a balance of crown, lords, and commons. For rhetorical purposes he was not above using the weight of Montesquieu's authority, but in fact his idea of constitutional balance had little to do with the separation of powers which liberals regarded as the bulwark of individual liberties. For Burke the balance is between the great vested interests of the realm, and its ground is simply prescription, not at all the inviolability of individual rights. He agreed substantially with Hume that the arrangements of a political society are conventions sanctified by use and wont.

> Our constitution is a prescriptive constitution; it is a constitution whose sole authority is that it has existed time out of mind. . . . Your king, your lords, your judges, your juries, grand and little, all are prescriptive. . . . Prescription is the most solid of all titles, not only to property, but, which is to secure that property, to government. . . . It is a presumption in favour of any settled scheme of government against any untried project, that a nation has long existed and flourished under it. It is a better presumption even of the *choice* of a nation, far better than any sudden and temporary arrangement by actual election. Because a nation is not an idea only of local extent, and individual momentary aggregation; but it is an idea of continuity, which extends in time as well as in numbers and in space. And this is a choice not of one day, or one set of people, not a tumultuary and giddy choice; it is a deliberate election of the ages and of generations; it is a constitution made by what is ten thousand times better than choice, it is made by the peculiar circumstances, occasions, tempers, dispositions, and moral, civil, and social habitudes of the people, which disclose themselves

> only in a long space of time. . . . The individual is foolish; the multitude, for the moment, is foolish, when they act without deliberation; but the species is wise, and, when time is given to it, as a species it always acts right.[1]

This view of the constitution could, it is true, claim the authority of Locke, but not of those parts of Locke which taught that the rights of individuals are indefeasible and which mainly commended him to revolutionists. It joined rather with the tradition which Locke carried over from Hooker and which went back to a pre-revolutionary idea of the constitution as a comity between powers; all of them have an original authority, because all are organs of the realm, but none of them is legally sovereign. More truly, however, Burke's theory of the constitution and his conception of parliamentary government was based upon the actual settlement of 1688 (as distinguished from Locke's philosophical theory of it) by which effective political control passed into the hands of the Whig nobility. His effort to revivify the Whig Party was already reactionary in 1770, because the great Whig houses no longer had the position of undisputed leadership that they enjoyed after the Revolution. It was his loyalty to this conception of English government that made Burke oppose both the reform of parliament and the growth of George III's influence in it. For he feared, and frankly said that he feared, the patronage of the crown and the money of the East Indian nabobs, which together made up an influence stronger than the Whigs could muster. Burke's conception of parliamentary government accordingly included the independence of the ministry from the court and its leadership in parliament, but it excluded any popularizing of the House of Commons.

PARLIAMENTARY REPRESENTATION AND POLITICAL PARTIES

Consequently his theory of representation also looked back to the seventeenth century. He rejected the idea of a constituency as a numerical or territorial unit and of representation as implying the possession of the ballot by any considerable portion of the population represented. He denied that individual citizens as such are represented and that numerical majorities have any real significance in forming the mature opinion of the country. Virtual representation, that is representation "in which there is a communion of interests and a sympathy in feelings and desires," he thought had most of the advantages of representation by actual election and was free from many of its disadvantages. In short, Burke visualized parliamentary government as conducted under the leadership of a compact but public-spirited minority, which in general the country was willing to follow, with parliament mainly a place where the leaders of this minority could be

[1] *Reform of Representation in the House of Commons* (1782), *Works*, Vol. VI, pp. 146 f. References are to Bohn's edition (London, 1861).

criticized and called to account by their party but in the interests of the whole country. At the same time his views permitted some sound criticism of representative government as it then existed. He pointed out effectively difficulties which arose from trying to legislate in parliament in too great detail. He wrote, in his addresses to his constituents at Bristol, the classic defence of a member's independence of judgment and action. Once elected he is responsible for the whole interest of the nation and the empire, and he owes to his constituents his best judgment freely exercised, whether it agrees with theirs or not. As Burke said, a member does not go to school to his constituents to learn the principles of law and government.

Burke's effort to give new life to the Whigs caused him to see, earlier than any other English statesman, the necessary place in parliamentary government held by the political party.[1] This was implied in the Whig conception of the ministry as leaders of the House of Commons. Burke's argument was directed against the prejudice, especially favourable to the pretensions of a 'patriot king' like George III, that any combination for a political purpose within the nation is a faction, pursuing only unpatriotic partisan advantages. He formulated the classic definition of a political party:

> Party is a body of men united, for promoting by their joint endeavours the national interest, upon some particular principle in which they are all agreed.

He argued, unanswerably, that any serious statesman must have ideas about what sound public policy requires and, if he is responsible, he must avow the intention to put his policy into effect and seek the means to do it. He must act with others of like views and allow no private considerations to break his loyalty to them. They must hold together as a unit and refuse alliances or leadership incompatible with the principles on which their party is formed. This was unquestionably an idea of great importance for the understanding and operation of constitutional government.

ABSTRACT RIGHTS AND THE POLITIC PERSONALITY

Important though these ideas of English government were, they would hardly entitle Burke to a high place among political philosophers. It was the Revolution in France that forced him, much against his will, to state in general terms the principles upon which he had been accustomed to act. In his earlier writings he had almost ostentatiously eschewed a political philosophy. In the two most celebrated cases in which he played a conspicuous part, the controversy with America and the attack on the privileges of the East India Company,

[1] *Thoughts on the Cause of the Present Discontents* (1770), *Works*, Vol. I, especially pp. 372 ff.

he refused to discuss either the abstract legal powers of parliament or the abstract rights of the colonies or the Company. In the case of America he had proposed to consult the 'genius' of the constitution but he had denied that its letter was worth debating. Still more had he been accustomed to speak disparagingly of abstract theories about the rights of citizens, the resort to which he described as "a sure symptom of an ill-conducted state." He had contrasted judgment in the abstract sciences, where it is a merit to consider only one circumstance at a time, with political judgment, which requires consideration of the largest possible number of circumstances. He had denied that moral questions are ever abstract and had asserted that "things are right and wrong, morally speaking, only by their relation and connection with other things." He had described the wisdom of the statesman as prudence, expedience, the knowledge of human nature, and dependence upon opinion. In short, he had conceived politics as an art and a gift of insight, dealing with a subject-matter so "obviously mixed and modified," that human rights "are in a sort of middle, incapable of definition but not impossible to be discerned." It was the militancy of the revolutionary philosophy that forced Burke not, indeed, to state a theory of rights, but to set down in general form his ideas of the social framework in which rights occur.

It is true that he never denied the reality of natural rights. Like Hume he admitted that the social contract may be true merely as a bit of hypothetical history, and much more than Hume he was convinced that some of the conventions of society are inviolable. Just what these immovable principles are he never tried to say—property, religion, and the main outlines of the political constitution would probably have been among them—but he certainly believed in their reality. However, again like Hume, he believed that they were purely conventional. That is to say, they arise not from anything belonging to nature or to the human species at large, but solely from the habitual and prescriptive arrangements that make a particular body of men into a civil society. Burke drew precisely the same contrast between a race and a society that Rousseau had drawn in his criticism of Diderot.

> In a state of *rude* nature there is no such thing as a people. A number of men in themselves have no collective capacity. The idea of a people is the idea of a corporation. It is wholly artificial; and made, like all other legal fictions, by common agreement. What the particular nature of that agreement was, is collected from the form into which the particular society has been cast.[1]

This is the reason why the revolutionary ideal of equality is impossible to realize and destructive in its effects. The rule of majorities is itself merely a social convention, a device of practice settled by general

[1] *Appeal from the New to the Old Whigs* (1791), *Works*, Vol. III, p. 82.

agreement and strengthened by habit; it is quite unknown to 'nature.' Moreover, natural equality is socially fictitious. The incorporation of men into a politic body requires differences of rank, an "habitual social discipline, in which the wiser, the more expert, and the more opulent conduct, and by conducting enlighten and protect, the weaker, the less knowing, and the less provided with the goods of fortune." In short, a people is an organized group; it has a history and institutions, customary ways of acting, habitual pieties and loyalties and authorities. It is a "true politic personality."

Such a corporate structure depends only in a small degree upon calculation or self-interest or even upon the conscious will. In his ironical attack upon the revolutionists' glorification of reason, Burke was even willing to say that society depends on "prejudice," that is to say, on deep-seated feelings of love and loyalty, beginning with the family and the neighbourhood, and spreading out to the country and the nation. At bottom these feelings are instinctive. They make up the massive substructure of human personality in comparison with which reason and self-interest are superficial. At the foundation of society and morals is the need that every man feels to be a part of something larger and more enduring than his own ephemeral existence. Communities are held together not by self-interest cunningly calculated but by the sense of membership and duty, by the feeling that one has a place in the community even though it be but a lowly one, and that one is morally obligated to carry the burden that one's position traditionally imposes. Without such a sense a stable union of men is impossible, for the individual intelligence, unsupported by customary institutions and their duties, is a frail instrument.

> We are afraid to put men to live and trade each on his own private stock of reason; because we suspect that this stock in each man is small, and that the individuals would do better to avail themselves of the general bank and capital of nations and of ages.[1]

It was this sense of the massiveness of the communal life and of the relative impotence of individual reason and will that made Burke the enemy of abstract ideas in politics. Such ideas are always too simple to fit the facts. They assume a degree of inventiveness that even the wisest statesman does not possess and a degree of pliability that institutions do not possess. Institutions are not invented or made; they are alive and grow. Hence they must be approached with reverence and touched with caution, for the planning and contriving politician with venturesome, speculative plans for new institutions can easily destroy what it passes his wit to rebuild. Old institutions work well because they have ages of habituation and familiarity and respect behind them; no new invention, however logical, will work until it has amassed a similar body of habit and sentiment. Accordingly the pretensions of

[1] *Reflections on the Revolution in France* (1790), *Works*, Vol. II, p. 359.

the revolutionists to make a new constitution and a new government seemed to Burke both mad and tragic. A government may be changed and improved, but only a little at a time and always in accordance with the habits of its people and in the spirit of its own history. This was what Burke meant when he spoke of consulting the genius of the constitution. He had an almost mystical reverence for the embodied wisdom of a people. Always, he assumed, a great political tradition contains the clues for its own development, not by the slavish following of precedent but by the adaptation of a customary practice to a new situation. This for him was the art of the statesman, to preserve by changing. It was a faculty of insight as much as reason and as such defied definition.

THE DIVINE TACTIC OF HISTORY

Accordingly, Burke not only cleared away, as Hume had done, the pretence that social institutions depend on reason or nature but far more than Hume he reversed the scheme of values implied by the system of natural law. It is custom, tradition, and membership in a society far more than reason that gives moral quality to human nature. As Rousseau had said, one becomes a man by being a citizen. For it is this "artificial" body that provides everything morally estimable or even genuinely rational in human life; "art is man's nature." The contrast is not between a stupid, repressive authority and the free, rational individual, but between "this beautiful order, this array of truth and nature, as well as of habit and prejudice" and "a disbanded race of deserters and vagabonds." Civilization is the possession not of individuals but of communities; all a man's spiritual possessions come from his membership in an organized society. For society and the social tradition is the guardian of all that the race has created, its moral ideals, its art, its science and learning. Membership means access to all the stores of culture, to all that makes the difference between savagery and civilization. It is not a burden but an open door to human liberation.

> Society is indeed a contract. Subordinate contracts for objects of mere occasional interest may be dissolved at pleasure—but the state ought not to be considered as nothing better than a partnership agreement in a trade of pepper and coffee, calico or tobacco, or some other such low concern, to be taken up for a little temporary interest, and to be dissolved by the fancy of the parties. It is to be looked on with other reverence; because it is not a partnership in things subservient only to the gross animal existence of a temporary and perishable nature. It is a partnership in all science; a partnership in all art; a partnership in every virtue, and in all perfection. As the ends of such a partnership cannot be obtained in many generations, it becomes a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born. Each contract of each particular state is but a clause in the great primeval

> contract of eternal society, linking the lower with the higher natures, connecting the visible and invisible world, according to a fixed compact sanctioned by the inviolable oath which holds all physical and all moral natures, each in their appointed place.

In this eloquent passage, probably the most famous that Burke ever wrote, the peculiar, almost Hegelian, use of the word state ought to be noted. No clear line is drawn between society at large and the state, and the latter is named as in a special sense the guardian of all the higher interests of civilization. Yet the fact is not excluded that the state is also, in one of its lower capacities, the government that fosters "a trade of pepper and coffee." This was, to say the least, a serious confusion of words, since society, the state, and government have certainly very different meanings. Moreover, the interchange served a rhetorical need in Burke's argument. By it he implied that the revolutionary government in France, in overthrowing the monarchy had become an enemy to French society and was destroying French civilization. Doubtless Burke meant to assert that this was true, but he had no right to cast the argument in a form that begged the question. Overthrowing a government and destroying a society are quite different things, and there are many sides of a civilization that depend very little on the state. This tendency to idealize the state by making it the bearer of all that has the highest value for civilization became characteristic of Hegel and of the English idealists.

Burke's reverential attitude towards the state distinguished him absolutely from Hume and the utilitarians; the word expedience was often on his lips but it had hardly the meaning of utility. For he practically united politics with religion. This was true not only in the conventional senses that he was himself a religious man, that he believed good citizenship to be inseparable from religious piety, and that he defended the establishment of the English church as a consecration of the nation. It was rather that he looked upon the social structure, its history, its institutions, its manifold duties and loyalties, with a reverence that was akin to religious awe. He experienced this feeling not only for England but for any ancient, deeply rooted civilization. The vehemence of his attack on the East India Company and of his arraignment of Warren Hastings was in part due to such a feeling towards the ancient civilization of India and to the conviction that the Indians must therefore be governed "upon their own principles and not upon ours," while he believed that the Company had merely exploited and destroyed. He felt a like reverence for the culture of France, even for its monastic institutions, for which as a Protestant he had no strictly religious regard. Burke never could feel that any government or any society was a matter of human concern alone; it was a part of the divine moral order wherewith God governs the world. Nor could

[1] *Reflections on the Revolution in France* (1790), *Works*, Vol. II, p. 368.

he feel that any nation was a law merely to itself. For as every man should have his place in the stable and continuing order of his nation, so every nation has its place in a world-wide civilization unfolding in accord with "a divine tactic." In one pathetic passage, written after Burke had nearly exhausted himself with the violence of his attack on France, this sense of a divine plan in history rose above even his invincible hatred of the Revolution. He said in a spirit of resignation that if, indeed, a great change is to come, "then they who persist in opposing this mighty current in human affairs will appear rather to resist the decrees of Providence itself, than the mere designs of men." In this feeling for divine immanence in the social order and its historical development Burke was strikingly like Hegel.

> I attest the retiring, I attest the advancing generations, between which, as a link in the great chain of eternal order, we stand.[1]

Burke is rightly regarded as the founder of self-conscious political conservatism. Nearly all its principles are to be found in his speeches and pamphlets: an appreciation of the complexity of the social system and of the massiveness of its customary arrangements, a respect for the wisdom of established institutions, especially religion and property, a strong sense of continuity in its historical changes and a belief in the relative impotence of individual will and reason to deflect it from its course, and a keen moral satisfaction in the loyalty that attaches its members to their stations in its various ranks. The point is not, of course, that before Burke there was no conservatism, but it is almost true to say that there was no conservative philosophy. He intended, indeed, to uphold the political privilege of a party that was already losing its control of English government, but his ideas had a much wider application than the defence of the Whig oligarchy. The reaction that he led against the French Revolution was the beginning of a shift which carried the prevailing social philosophy from attack to defence, and therefore to a new emphasis on the value of stability and the power of custom on which stability depends. It was not true that this new conservatism stood immovably for the *status quo*. Hegel, whose philosophy embodied systematically all of Burke's scattered principles, was typically the advocate of a new political order in Germany. But the rise to importance of such a philosophy signified an era in which the forces of change were ready to join hands with the forces of stability. Behind it lay a structure of social classes which for the time being was relatively stable and in which even liberals could hope to gain their ends by evolution rather than revolution.

The persuasiveness of this change in the climate of European opinion

[1] *Warren Hastings*, *Works*, Vol. VIII, p. 439.

is indicated by the astonishing similarity between the basic ideas of Burke and Rousseau. Superficially the two men had nothing in common, and Burke did not fail to record the contempt which a somewhat superficial acquaintance aroused in him for Rousseau's character. Yet Rousseau's nostalgia for the city-state and Burke's reverence for the national tradition were of a piece. Both were phases of the new cult of society which was replacing the old cult of the individual. Not less striking were the differences between Burke and Hume, despite the substantially conservative temper of both men and their agreement about the untenability of the system of natural law. Hume retained the preference for matter-of-fact motives and purposes which always characterizes the utilitarian temperament. If there was anything that aroused downright distrust and dislike in his placid mind it was "enthusiasm." In destroying reverence for the law of nature he felt no need to put a new reverence in its place, and a cult of society would not have appeared to him better than other cults. With Burke the destruction of the pseudo-science of natural law was the occasion, as it was with Kant, for setting up a "rational faith," in which the warmth of reverence did duty for the assurance of truth.

It is perhaps stretching a point to say that Burke had a political philosophy at all. His ideas are scattered through his speeches and pamphlets, all called out by the stress of events, though they have the consistency that is the stamp of a powerful intelligence and settled moral convictions. Certainly he had no philosophy other than his own reaction to the events in which he took part and little knowledge of the history of philosophy. He was therefore unaware of the relation of his own ideas, or of the system of natural law that he opposed, to the whole intellectual history of modern Europe. He could not have given systematic form even to his own reflections on political and social morality; still less could he trace their bearing on the larger questions of religion and science of which they were a part. In the generation after Burke, however, it was just this broader relationship that Hegel tried to show. There is no question of direct influence; Burke seems never to have been mentioned by Hegel, though the influence of Rousseau upon him was important. But what Burke had taken for granted Hegel tried to prove: that the apparently fragmentary social tradition can be placed in a general system of social evolution. And he added what Burke had not thought of: that the rational form of this evolution might be made into a method generally applicable to philosophy and social studies.

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CHAPTER XXX

A NEW METHODOLOGY: HEGEL

THE philosophy of Hegel aimed at nothing less than a complete and systematic reconstruction of modern thought. In it political philosophy formed an important though still a secondary interest, the first place being filled by religion and metaphysics. In its broadest aspects his philosophy was intended to deal with a problem that had grown more and more acute as modern science progressed, the opposition between the conception of the natural order required by scientific methodology and that implicit in traditional religious and ethical ideas. This opposition had culminated in the clear-cut antithesis drawn by Hume between reason in the formal sense, causal relations uniting matters of fact, and judgments of value or obligation. The hostility of moral and religious sentiment to science already formed an important motive in the thought of Rousseau. At the same time the reaction against the French Revolution, because of its terrorism and the imperialist attack on smaller nationalities in which it ended, put a new value on national tradition and the customary pieties, well illustrated by Burke. Hegel's purpose was to draw these opposing tendencies into a single system: to exhibit the customs and traditions of particular nations as elements of an evolving world-wide civilization, to give to science its due, though subordinate, place in a philosophy which should culminate in religion, and above all to offer an enlarged conception of reason that would overlap and include all three factors of Hume's analysis. Of these purposes the last was fundamental, since it was needed to provide the method by which the first two might be accomplished. The centre of Hegel's philosophy was therefore a new logic, purporting to set forth a new intellectual method, the dialectic, which should bridge the gulf between reason, fact, and value.

The nature of Hegel's conclusions, however, was as influential as the new method by which he professed to justify them. Especially in his political theory he set a value on the national state and its place in history, which formed no small part of his influence. In Hegel's interpretation of history it is the nation, rather than the individual or any other grouping of individuals, that forms the significant unit. The genius or spirit of the nation (*Volksgeist*), working through individuals but largely in independence of their conscious will and intention, is the true creator of art, law, morals, and religion. Hence the

history of civilization is a succession of national cultures in which each nation brings its peculiar and timely contribution to the whole human achievement. It is the national state, moreover, in which this inborn impulse of the nation to create reaches self-conscious and rational expression. The state is therefore the director and the end of national development. It overlaps and includes all that the nation produces that is morally and spiritually significant for civilization. This idealization of nationality and of the state was the most characteristic feature of Hegel's political philosophy, a phase of its influence that persisted throughout the nineteenth century and down to the present time.

In Hegel's own conception the method and the result—dialectic and nationalism—were inseparably joined, though there was, in fact, no very close logical relation between them. In the event they parted company. The dialectic, reformulated by Marx as the economic interpretation of history, became the intellectual instrument of socialism, which has been in principle internationalist, if not anti-nationalist, and the avowed enemy of the state. On the other hand, nationalism and the idealizing of the national state were able to persist very well, and even to retain the main features that Hegel gave them, without dialectic. As the nineteenth century advanced, nationalism steadily lost the implications of radicalism which it had at the beginning of the century as the opponent of dynasticism, and in consequence became conservative or even reactionary. In this way two of the most important strands of later political thought had their origins in Hegel. Through the dialectic as revised by Marx he became the source of a new proletarian radicalism, culminating in communism, which has steadily tended to displace the older middle-class, utilitarian liberalism. Through his idealization of the national state he became a source for conservative nationalism, culminating in fascism, which has swallowed up the liberal nationalism of the mid-nineteenth century.

THE HISTORICAL METHOD

The social philosophy of Hegel centres in the study of history and in the relation of history to the other social studies. Hegel himself was unsurpassed among modern philosophers in his knowledge of the history of Western culture. The history of religions, of philosophy, and of law were created as special subjects largely under the tutelage of his philosophy. Such studies assumed so important a place in the nineteenth century that it became the custom to say that eighteenth-century writers had been typically "unhistorical" in their treatment of these subjects. This was less than just to a century that produced Gibbon, Voltaire, and Montesquieu. What was meant, however, was that in the nineteenth century a certain conception of history came to be thought especially important. This was the idea that history provides

a specific method that can be applied to the study of law, economics, religion, and philosophy. When thus applied the historical method was believed to supplant, or at least to supplement, the methods of analysis and generalization. This was probably a misconception, but the belief that such a method can be discovered was a vital part of Hegel's philosophy. From Hegel directly or indirectly it spread broadcast through social studies in the nineteenth century.

The historical method, as a special way of approaching social studies, depended upon doctrines that formed an important part of the Hegelian philosophy. The method assumed that there is in nature a pattern or a law of development which can be exhibited by a proper arrangement of subject-matter. This holds true for the whole evolution of society or for any of the chief phases of civilization, as well as for any subdivision of history. Hence it is possible to present an orderly evolution of law, of economic institutions, of philosophical or scientific thought, or of government. This is not imposed on the subject-matter by the investigator but is immanent in the facts themselves once they are put into a proper order. The special work of historical insight consists in bringing to light this pattern, which is of course concealed in a welter of facts, and it is for this reason that historical and theoretical studies are connected. By grasping the general plan or logic of historical development the important can be distinguished from the casual. It may not be possible actually to predict the future course of events but at least the general current can be discriminated from the mere eddies and backwashes in the stream. This conception of historical method perhaps owed something to the idea of progress that had been developed by Turgot and Condorcet, and as the nineteenth century advanced it easily coalesced with the idea of biological evolution, or perhaps more accurately with current misconceptions of biological evolution. Hegel, however, owed nothing to biology, and he certainly believed that the theory of development in his system was much more profound than eighteenth-century ideas of progress.

His reason for this belief was that he thought he had discovered a real necessity in historical development, not merely an empirical fact or a generalization from historical observation but a law of synthesis inherent both in the nature of mind and in the nature of things. It was in this sense that he was an idealist: the laws of thought and the laws of events are ultimately identical and both include a discernible pattern of growth. This also was his answer to Hume. For the necessity of history is a synthesis of logical implication, of causal relationship, and of enlarging purpose. Properly studied history provides the principles for an objective criticism, immanent in the course of development itself, which distinguishes the true from the false, the significant from the trivial, the permanent from the transient, in short, what Hegel was accustomed to call the "real" from the merely apparent. Such

a study of history requires a special apparatus, and it was this which Hegel believed that he had provided in his dialectic. For the course of development is synthetic, and to grasp it requires an instrument of synthesis and a higher mental faculty than the power of analysis. The two faculties of analysis and synthesis he distinguished respectively as understanding and reason, and he regarded his own logic as a logic of reason while he attributed the deficiencies of social studies in the eighteenth century to the fact that it had relied on the analytic understanding alone. Understanding breaks up living organic wholes, such as society, into discrete parts and for this reason it is unable to see them as creative and as continuously growing. Reason pierces through to the underlying forces that control and create the parts. As a philosophical system Hegelianism stands or falls with the thesis that historical development requires a special logic of its own. The dialectic which Hegel offered as the special organ of that logic stands or falls according as it is able to provide an intelligible meaning for the necessity which he attributed to history.

Commentary on Hegel has on the whole tended to take too seriously the parade of logical precision and the formidable terminology in which he finally cast his philosophy. There is now no doubt that his main ideas were first suggested to him by his youthful studies of European culture, especially the history of Christianity, and only later were reduced to the formulas in which he published them.[1] The chief interest of Hegel's youth was not so much politics as religion, and here he started from Herder and Lessing, who had given to the Enlightenment in Germany a tone significantly different from that which it had in England and France. From them he learned to think of creeds and ritual as neither wholly true nor wholly superstitious, but as the outward forms in which a spiritual religion clothes itself. They are at once needful for their time and yet of only passing value. Like the ablest of his contemporaries in Germany, Hegel was deeply stirred by a far-reaching renaissance of Greek studies. For him the two great forces in Western civilization were the free intelligence of Greece and the deeper moral insight, as he believed, of Christianity. Intellectually he was forced to estimate Christian theology as decadent when compared with Plato and Aristotle, and yet it brought to Western culture what Greek philosophy could not give. As he reflected upon this problem he came to see that the philosophy of Athens was an inseparable part of the whole mode of life in the city-state, and that the mysticism, pessimism, and world-weariness of Christianity were correlated with the loss of civic freedom. Religion, then, is an outgrowth of the whole social life of a people and an age, and as a whole the necessary response

[1] The point was first suggested by Wilhelm Dilthey in his *Jugendgeschichte Hegels* (1905) and has been developed in great detail by T. L. Haering in *Hegel, sein Wollen und sein Werk*, Vol. I (1929).

of the spirit to its ideals and the circumstances under which those ideals must be realized. Its cycles Hegel came to interpret as an alternation of creativeness and frustration. In the latter the spirit withdraws in order to return to itself at a higher level. Profoundly as this speculation was touched by historical interest, it was never antiquarian. Hegel's purpose was to revivify popular religion, to find something less doctrinaire than the religion of reason and something less stultifying than ecclesiastical orthodoxy. This remained a permanent quality of his approach to all kinds of social problems: to evaluate institutions as parts of a total culture, in the light of the past but with an eye on the probable next step in their development.

THE SPIRIT OF THE NATION

In Hegel's early writings on politics, there was a similar purpose and conception. There was the same rather unusual combination of practical interest with historical study, the same conception of institutions as the expression of a national spirit and the organs of a national life, and the same sense of inward determination by an expanding social spirit. The frustration of spirit which Hegel regarded as the key to the rise of Christianity he conceived to be also, *mutatis mutandis*, the mark of his own age and the key to great social and spiritual changes which he hoped, or perhaps foresaw, for Germany. Between the spirit of Germany and the actual state of German politics he found a complete discrepancy which he thought portended a new day, for the spirit will be served. Writing in 1798, doubtless still under the drive of a youthful enthusiasm kindled by the French Revolution, he said:

> The silent acquiescence in things as they are, the hopelessness, the patient endurance of a vast, overmastering fate, has turned to hope, to expectation, to the will for something different. The vision of a better and a juster time has entered alive into the souls of men, and a desire, a longing, for a purer, freer condition has moved every heart and has alienated it from the existing state of affairs. . . . Call this, if you like, a fever-paroxysm, but it will end either in death or in eliminating the cause of the disease.[1]

Had he been writing a few years later, Hegel would have looked with less complacency upon the risks of disorder inherent in a fever-paroxysm, yet it remained true always that he looked forward to a new philosophy and a new political life for Germany. At no time was he a revolutionist—he believed too fervently in the essential rightness of the institutions in which the national life had embodied itself—yet his political writing was at once a prophecy and an appeal, but an appeal rather to the communal will of the nation than to the self-help of its individual members.

[1] *Über die neuesten innern Verhältnisse Würtemsbergs* (1798), *Werke* (ed. by Lasson), Vol. VII, pp. 150 f.; see p. 151 for quotation on next page.

> How blind are they who can imagine that institutions, constitutions, and laws can persist after they have ceased to be in accord with the morals, the needs, and the purposes of mankind, and after the meaning has gone out of them; that forms in which understanding and feeling are no longer involved can retain the power to bind a nation!

Such institutions must change or give place to new embodiments of national aspiration.

This thought was expanded and particularized, with special reference to the existing condition of Germany, in an essay which Hegel wrote in 1802 on the *Constitution of Germany*.[1] The work began with the striking assertion, "Germany is no longer a state." Hegel makes this good with an exceedingly able analysis of the decline of the empire after the Peace of Westphalia. Germany, he argued, has become merely an anarchical collection of virtually independent states. It is a name which has the connotations of past greatness, but as an institution it is wholly out of accord with the realities of European politics. In particular, it is to be contrasted with the unified national governments which modern monarchy has produced in France, England, and Spain, and which have failed to develop in Italy and Germany. Able as Hegel's historical analysis was, however, it was obviously a means and not an end. His purpose was to raise the question, How may Germany become a real state?

In common with many of his contemporaries, Hegel found the cause of the empire's weakness in the particularism and individualism and love of independence which he took to be a national characteristic of the German people. Culturally the Germans are a nation, but they have never learned the subordination of parts to the whole which is essential both for a national government and for real political freedom. The love of freedom, by refusing to submit to the conditions which alone make national liberty possible, has proved self-defeating. The empire has no power except what the parts give it, and the existing constitution has in fact no purpose except to keep the state weak. The free cities, the independent princes, the estates, the guilds, and the religious sects go their own way, absorbing the rights of the state and paralysing its action—all with a good show of legal right in the antiquated feudal law that governs the empire. The motto of Germany, as Hegel said with bitter irony, is, "Fiat justitia, pereat Germania." For there is complete confusion between private and constitutional law. Legislative, judicial, ecclesiastical, and military privileges are bought and sold like private property. This criticism is the root of the distinction between the state and civil society which became a typical feature of Hegel's finished political theory.

[1] *Die Verfassung Deutschlands* (1802), *Werke* (ed. by Lasson), Vol. VII, pp. 1 ff.

A GERMAN STATE

In accordance with this diagnosis of Germany's ills Hegel defined the state as a group which collectively protects its property; its only essential powers are a civil and military establishment sufficient to this end.[1] In other words, a state is *de facto* power, the expression, certainly, of national unity and a national aspiration to self-government, but fundamentally the power to make the national will effective at home and abroad. It is consistent with any lack of uniformity which does not prevent effective defence. The form of government, equality of civil rights, uniformity of law throughout the national domain, the existence of privileged classes, even differences of customs, culture, language, and religion, are all indifferent in themselves. On this subject, Hegel's position was not fundamentally different from that taken by Jean Bodin, for the obvious reason that the state of France at the end of the sixteenth and that of Germany at the beginning of the nineteenth century were broadly comparable. In the same spirit Hegel criticized drastically the 'pedantic' sort of centralized government which tries to do everything. He was evidently thinking of republican France and of Prussia. The upshot of the argument was that Germany may become a state despite its internal diversity.

As for the means to this end, Hegel hoped for a great military leader who would still accept the limitations of constitutional monarchy. The experience of France, Spain, and England proved, he thought, that the destruction of feudalism and the rise of a national state require the strengthening of the monarchy.

> From the period when these countries grew to be states dates their power, their wealth, and the free condition of their citizens under the law.[2]

Emphatically he did not believe that Germany would ever be unified by common consent or by the peaceful spread of national sentiment. Gangrene, he said ironically, is not cured with lavender water. It is war rather than peace that shows the health of a state, and the two heroic figures in modern politics are Machiavelli and Richelieu. The *Prince* he called "the great and true conception of a real political genius with the highest and noblest intention."[3] For the rules of private morality do not hold between states; a state has no higher duty than to preserve and strengthen itself. Richelieu's enemies—the French nobility and the Huguenots—went down not before Richelieu but before the principle of French national unity which he represented. Hegel added the characteristic remark, "Political genius consists in identifying yourself with a principle."[4] In 1802 Hegel was firmly con-

[1] *Die Verfassung Deutschlands* (1802), *Werke* (ed. by Lasson), Vol. VII, p. 17.
[2] *Ibid.*, Vol. VII, p. 109; cf. the remarks on the origin of monarchy in the *Philosophy of History*, Pt. IV, sect. 2, ch. iii.
[3] *Die Verfassung Deutschlands*, Vol. VII, p. 113.
[4] *Ibid.*, Vol. VII, p. 108.

vinced that the modernizing of Germany required an era of blood and iron, but at that time he hoped more from Austria than from Prussia.

It has seemed worth while to refer somewhat at length to this early essay on the *Constitution of Germany* for two reasons. In it Hegel wrote as a publicist and quite without that astonishing array of dialectical abstractions that later made his political philosophy so difficult. It has been plausibly suggested that in 1802 his ambition was nothing less than to become the Machiavelli of Germany. The most striking qualities of his thought were a firm grasp of historical actualities and a kind of hard political realism that for the most part can be read only between the lines of his later work. Yet without the logical apparatus most of his leading ideas were already there. Already the state is power, the outward embodiment of a nation's will; already it stands above and distinct from the moral and economic arrangements of private life and civil society, an end which alone gives dignity and ultimate worth to the latter. Already there is the reference to history, not in the sense of a simple appeal to experience but with the idea that in history one sees the march of the spirit in the world.

Finally, the essay on the *Constitution of Germany* showed clearly the moral purpose which really controlled the dialectic. In the opening pages he explained that the object of the essay was to promote understanding of things as they are, to exhibit political history not as arbitrary but as necessary. For unhappiness results from the discrepancy between what is and what men are fain to believe ought to be. And they are prone to imagine that events are mere unrelated details and not "a system ruled by a spirit." Only when they realize that what is must be will they perceive that it also ought to be. This is manifestly the famous principle that "the Real is the rational." Yet no attentive reader either of the early essay or of the *Philosophy of Right* can imagine that Hegel meant to teach political quietism. What "must be" is not the *status quo* but the modernizing and nationalizing of Germany. The *must* is a moral imperative, not something that is physically inevitable or merely desirable but something rooted in the destiny of civilization and hence a call to devotion and, if need be, to self-abnegation. This compounding of moral, physical, and logical necessity was the very essence of the dialectic.

DIALECTIC AND HISTORICAL NECESSITY

The *Philosophy of Right*[1] is a book that cannot be summarized. This is true in part because of the technical elaborateness of its logical apparatus but chiefly because it is fundamentally ill-arranged. Moreover, the bad arrangement is not due to confusion or inadvertence but precisely to the apparatus itself. The structure of the book grew

[1] *Grundlinien der Philosophie des Rechtes* (1821); trans. by S. W. Dyde (1896).

directly from Hegel's contrast of understanding and reason. The first two parts, dealing with abstract right and subjective morality, present the theory of right or law from the point of view of understanding. In particular, the first part has to do substantially with the natural rights of property, personality, and contract. But Hegel must of course show that the understanding is self-defeating, that it issues in contradictions which it cannot solve, thus leading on to the third part, on Freedom or Objective Will, in which reason resolves the contradictions. It was in this third part, and especially in the last two subdivisions on civil society and the state, that Hegel really said what he has to say. But the arrangement hopelessly dislocated the subject-matter. Sometimes subjects that belong together were pulled apart, as when property and contract were discussed apart from the economic order, marriage apart from the family, crime apart from the administration of law, and private law apart from constitutional. Sometimes subjects were inappropriately combined, as divorce and inheritance. The arrangement of the book went far to conceal one of Hegel's most suggestive ideas, that economic, political, legal, and ethical institutions are socially interdependent.

Since it is impossible to follow Hegel in either the order or the manner of developing his social philosophy, it is as well to break free entirely and state the important parts of his argument in the simplest manner possible. The significance of his thought centres about two points, the dialectic as a method and his idealization of the nation-state as the guiding principle in the history of civilization. Each of these assumed a permanent importance in later political theory, the dialectic in the theory of Marxian socialism and communism, the idealized state in conservative nationalism and fascism.

The purpose of the dialectic is to display what Hegel calls "necessity" in history, and in consequence the meaning of dialectic depends upon the complicated meaning which he attached to historical necessity. In the first instance it means, of course, that history shows a continuous and orderly unfolding, a trend or direction. Each of its periods has its own character, which unites all the institutions of that period, as for example the city-state determined the qualities of Greek religion, philosophy, and art, as well as its political history. A change in institutions fundamental to the period means a determinate change all along the line. Hegel started from Montesquieu's conception of society as a constellation of mutually determined factors, but to this he added determination in the historical succession of institutions as well. The historians of the Enlightenment, he thought, had lacked just this sense of temporal order, and largely because they had regarded the writing of history as an adjunct to the statesman's art. In Hegel's opinion they had greatly overestimated the part which legislators can play in planning the life of a society and the extent to which a conscious control

of social development is possible. To this idea he attributed also much of the fanaticism and terrorism in which the French Revolution ended. In part, therefore, necessity in history had for him the obvious meaning that human volition is limited. In part, also, his philosophy reflected a better understanding of the complexity of social relations and rejection of the superficiality that characterized the reformers of the Age of Reason.

It has sometimes been pointed out that Hegel's philosophy included a factor not very common in philosophical systems, a diabolic sense of humour or historical irony that made him delight in seeing the rationalist duped by an infinitely cunning world-spirit. History has its own solutions to its own problems which even the wisest men understand only in a small degree. This accounts for his belief that great men neither make nor guide history, but at the most understand a little of it and co-operate with forces enormously more massive than their own will and understanding. As he had said of Richelieu, "Political genius consists in identifying yourself with a principle." Great men are instruments of the impersonal forces that make history; they see a little and direct a little, but in the end they bow before the inherent logic of events. Like Burke Hegel believed that history is infinitely wiser than any man's understanding of it. This accounts also for his conception of the limited part that science or philosophy plays in it. A clear understanding of any social system, he thought, comes only when that system is already on the road to decay; Plato and Aristotle created the philosophy of the city-state in the fourth century, giving an abstract account of a form of life that the Age of Pericles had lived concretely and in a large measure unconsciously. "Minerva's owl begins its flight only in the gathering dusk." Like the Stoic God, history leads the wise man and drags the fool.

History, however, was not for Hegel intrinsically inscrutable or opaque. In it resides not unreason but a higher reason than the intelligence of any individual. "The Real is the rational and the rational is the real." To penetrate its apparent confusion, however, a clue is needed, and this the dialectic was intended to supply. In the abstract it was an over-simple device to open so complicated a maze. Hegel adopted an idea as old as the first Greek speculations about nature, namely, that historical processes go by opposites. Every tendency when carried to the full breeds an opposite tendency which destroys it. In political theory a similar idea had always been used in defence of the mixed constitution: unrestrained democracy ends in licence; unlimited monarchy degenerates into despotism. Hegel generalized the argument. Opposition and contrariety are found everywhere in nature and in thought. But whereas the balancing of opposites had been thought, in theories of the mixed constitution, to be the key to stability and permanence, Hegel thought of it as leading

rather to a moving equilibrium. Contrary forces in history provide its moving force; the balance is never permanent but merely gives a continuity and direction to change. Consequently, as he thought, the opposition is never absolute. The destruction of one position in a controversial situation is never complete. For both sides are partly right and partly wrong, and when the rights and the wrongs are properly weighed, a third position emerges more adequate than either. This was the fundamental insight that Hegel thought was embodied in the Platonic dialogues and the Socratic irony, and for this reason he adopted Plato's word, dialectic, or conversation.

This principle of an opposition of forces in moving and orderly equilibrium, emerging in a pattern of progressive logical development, appeared to him general enough to supply a formula for all nature and all history. He applied it perhaps most effectively to the history of philosophy. It accounts, as he thought, for the apparent unsuccess of all systems, while providing for the increasing meaning and growing truth of the whole. Every philosophy grasps a part of the truth, none grasps it all. Each supplements the other, and the eternal problem is to restate the questions in such a way as to include the apparent contradictions between opposing systems. In any absolute sense the problems are never solved; in a relative sense they are always being solved. The discussion begins again around a new point which takes account of all that has gone before. Consequently, as Hegel said, the history of philosophy literally *is* philosophy; it is absolute truth projected, so to speak, in time and progressing towards a final consummation which, however, it can never reach. Its history is like a spiral that mounts as it turns. Its driving force is contradiction, the fruitful opposition between systems that constitutes an objective criticism of each and leads continually to a more inclusive and a more coherent system. The same is true not only of philosophy but of all history. Society itself and its law, its morals, and its religion mount as a result of the continual pressure of internal forces and their endless readjustment. This is the reason that there is a real historical method. By grasping *der Gang der Sache selbst*, the inner 'go' of events, one perceives that there is a logical next step or manifest destiny inherent in the state of affairs.

THE CONFUSIONS OF DIALECTIC

As a mere description of the part played in human affairs by contrary tendencies and purposes and by the continual compromising of these differences, there is no reason to object to the dialectic. Hegel, however, did not regard it as mere description but as a logical law. What he professed to have done was to revise the law of contradiction, setting up the idea of fruitful opposition in place of the barren opposition of mere affirmation and denial. Literally this would mean that a pro-

position can be both true and false at the same time. It is impossible to see that anything in historical or social studies required an assumption so violent as this. In fact, the actual oppositions to which Hegel referred, and which he called indifferently contradictions, were of widely different sorts. Sometimes he referred merely to physical forces that pull in opposite directions or causes that tend towards contrary results, such as living or dying. Clearly, if terms are used with precision, there is nothing whatever contradictory about there being in the same political situation, for example, forces that make for peace and other forces that make for war. Even the fact that there are ambiguous political states combining features of both war and peace is not a violation of the law of contradiction. It means only that the two are complicated and all their factors need not exist together. Sometimes also Hegel gives the name contradiction to oppositions of worth or moral quality, as when he speaks of punishment "negating" crime. The notion of moral retribution certainly does not mean that a crime is self-contradictory. The dialectic in fact thrives upon ambiguities of terminology. It describes as contradictory any kind of processes that are in some vague sense contrary to one another.

The dialectic, however, was designed to display and clarify the necessity which Hegel believed to be implicit in historical development. The word necessity applied to history might of course mean merely cause and effect, and in that sense every event would be alike necessary. But this was emphatically not what Hegel meant when he said that "the real is the rational," because he always distinguished between the real and that which merely exists.[1] The real is the permanent inner core of meaning in history; the particular events are casual, transient, or apparent. Consequently the dialectic was essentially a selective process. It was a way of discriminating what is relatively accidental and insignificant from what is important and influential in the long run. As Hegel used the words, real was contrasted with unreal as important is contrasted with unimportant; necessary was contrasted with casual as the significant or the permanent is contrasted with the fleeting or the momentary. What exists is always momentary and to a large degree accidental; Hegel interpreted it as the surface manifestation of a deep-lying force which alone is real. In the manifestation there is always a more or less; it more or less completely represents what is behind it and in that sense it is more or less real. Hegel imputed to reality itself the degrees of importance which the dialectic distinguished in an historical subject-matter.

This carrying over of differences of importance into reality itself was fundamentally ambiguous. It may mean merely that some processes have more weight than others in bringing about an historical result. Or it may mean that a result comes about because it is import-

[1] His contrasted terms are *Wirklichkeit* for reality and *Dasein* for existence.

ant. In other words, important may refer to the amount of a causal influence or to the value of the outcome. Hegel systematically fused these two meanings. Thus he continually identified right and force, partly because he imputed to nature an ideal constitution that inevitably gives the greatest power to right and partly because he regarded might as making right. Thus the necessity that he saw in history was at once a physical and a moral compulsion. When he said that Germany *must* become a state, he meant that it ought to do so, that the highest interests both of civilization and of its own national life require it to advance in that direction, and also that there are causal forces that impel it to do so. Hence the dialectic bridges both the moral preference and the physical impulsion that the judgment expresses. Germany must become a state not because Germans wish it, and not because it will do so in spite of what they wish. It expresses at once a wish and a fact—a wish that is more than a caprice because the growth of Germany into a state is in line with the whole direction of political development, and a fact that is more than a casual, isolated event because it sums up what is objectively important in that development. In short, the dialectic asserts that thinking, at least about social matters, involves preference and selection; in it feeling and reason are joined. It is reason fired by passion and feeling disciplined by reason.

In social matters, therefore, science and philosophy were for Hegel inextricably intertwined with religion. He early formed the conception of religion, and indeed of morals, politics, and art, as expressions of a national spirit, working out its destiny in the historic situation. The free and harmonious expression of a nation's personality is at first instinctive and but half conscious. The breaking-up of this happy mode of life produces painful self-consciousness, alienation from the world as it is, and a sense of frustration, but this very disharmony is the means to a new harmony upon a higher level of spiritual self-expression. It was thus that Hegel conceived the other-worldliness of the Christian-Hellenistic period, supervening upon the natural grace and beauty of classical Greece. It was in some such terms also that he conceived the unhappiness of his own age. The disunion and feebleness of Germany are not marks of decay but rather the travail of the German spirit about to give birth to a new philosophy and a new social and political order.

So far as it concerned the individual, Hegel intended his philosophy not only to promote understanding but to induce a certain state of mind or moral attitude. It was not, however, moral exhortation in any usual sense. At the foundation of all effective action he saw moral 'reconciliation,' a sense of oneness with and dependence on society and a developing spiritual order, a feeling at once passive and active, resignation and co-operation. This only can cure the intolerable sense of futility and impotence to which self-consciousness is a prey. In

nothing was Hegel so unmeasured as in his condemnation of sentiment and mere good feeling, what he called bitingly "the hypocrisy of good intentions," which he believed to be always either weak or fanatical and in both cases futile. This reflected his utter disbelief in the power of unorganized emotion to do anything in a world where effectiveness is the final criterion of right. Had he not before his eyes the spectacle of German impotence, despite a very real sentiment of nationality? Sentiment does not make nations but the national will to power, translating itself into institutions. Certainly the reconciliation which Hegel meant to induce was no passive acquiescence in the existing state of affairs. It connoted rather a spirit of active co-operation, an acceptance of the social system which will free all the creative efforts of the individual for the realization of social purposes. Hegel's point of view was that which has often, perhaps usually, been taken by the reformer imbued with religious zeal, the position that made Luther and Calvin passionate enemies of the doctrine of free will, as it was taught by the intelligent but somewhat sceptical Erasmus. Nothing strengthens the sinews like believing that one stands at Armageddon and battles for the Lord, that the issue is not really in doubt because one is ranged on the side of eternal right.

The dialectic as Hegel used it was, therefore, a compounding of the religious, the ethical, and the factual, and the necessity which he attributed to history was similarly a compounding of causal relations and moral imperatives. It claimed at once the force of sentiment and the rigour of logic. It was at once a method of investigation and a moral attitude. It attributed to nature and to history a development or an evolution that belonged partly to the realm of romantic idealization and partly to that of religious mysticism. The dialectic used the idea of contradiction with a looseness of meaning that made it rather a figure of speech than an exact logical conception. It played continually upon the contrasts of vague popular speech, such as real and apparent, essential and accidental, permanent and fleeting. The criticisms and historical judgments to which the dialectic was supposed to give objectivity were in fact as subjective, as much conditioned by time and place and personality, as those of philosophers with no such elaborate apparatus. The synthesis in a single method of interests so diverse and factors so incapable of definition was in fact impossible. As Hegel used it, at least, dialectic cannot be said to constitute a definable scientific or philosophical method.

FREEDOM

The idealized form which Hegel's philosophy gave to the national state under the rule of a constitutional monarch was apparently regarded by him as fully proved by the dialectic. In point of fact the

relationship between the procedure and the conclusion was not at all close, as was proved by the ease with which Marx separated the two. A wholly different scale of values was as easy to associate with dialectic as that which Hegel himself chose to adopt. The value which he attached to constitutional monarchy was largely the result of the importance, when he wrote, which the problem of national unification had for all patriotic Germans. Most of the chief points in his theory of the state may be traced pretty directly to the question asked in the essay of 1802, How may Germany become a state? At the same time he subjected the prevalent individualism of the revolutionary era to a criticism that had weight without reference to the special situation in Germany. It was this important, though secondary, aspect of Hegel's social philosophy that chiefly influenced English Neo-Hegelians like T. H. Green and Bernard Bosanquet in the last quarter of the nineteenth century. This criticism, however, was involved from the start in a paradox because Hegel chose to call it a theory of freedom. This can hardly be regarded as anything except a direct challenge to the Revolution, for there was little appropriateness in the name. Following the suggestion already made by Rousseau, Hegel brought to light certain historical and psychological considerations which had been neglected by the doctrinaire individualism of natural rights. Had he merely pointed out that men value many things more than the exercise of their own choice, the case might have been put more simply but the dialectic would not have been as well served.

In most general terms what Hegel undertook to do was to reunite the individual with the social system of which he is a member. He urged the obvious fact that civilization is, in general, not foreign to, or repressive of, individual self-expression; that social forces are a medium in which the individual always moves and from which he derives the elements even of his individuality; that to be a man at all requires participation in the life of some sort of communities; that education and culture are in general a means of liberation; and that there is little freedom in a vaunted state of nature, at least as savages experience it. Few parts of Hegel's work are more enlightening than his proof that economic wants are social, as distinguished from mere biological needs, that custom and law are at once distinctively human and distinctively social, and that rights and duties are correlative and fall with the legal system. Individual freedom is therefore itself a social phenomenon, produced in the moral development of a community and protected by legal and ethical institutions which the community alone can provide.

There can be no doubt that this was a valuable corrective to doctrainaire individualism. Hegel swung back in the direction of Greek political theory, towards the view that individual good implies the performance of a socially valuable task. His theory was, moreover,

part of the widespread reaction against the violence of the French Revolution which Burke began. There was a sound reason why the case against the Revolution should have appealed to a German philosopher. The theory of natural rights, while of course fully known to educated Germans, had never made itself part of the popular consciousness in Germany. In England and France the seventeenth and eighteenth centuries had seen the theory made into a defence of revolution, and Germany was a country in which there was no revolution. Developed as an instrument in the hands of a religious minority to be used against a hostile centralized government, it had few uses in the one country where difference of religion coincided in general with political boundaries. After religious differences receded into the background of politics and natural rights tended to become a doctrine of economic *laissez faire*, the relatively backward industrialization of Germany, as compared with England and France, again failed to furnish a soil in which the theory would naturally flourish. Hegel's conception of an organic society matured a tradition which had been present in German philosophy since the days of Leibniz, Herder, and Lessing.

But Hegel's theory of freedom was not designed merely to combat the speculative errors of the Revolution in France. Very early he came to regard extreme individualism as a fundamental defect of the German national character in its political dealings. The Germans desire to be free and to be a nation, but they have never learned the lesson that they must first create a state as the precondition of freedom. For modern men political freedom can exist only in a national state, and the national state, when combined with Protestant Christianity, is unique in producing the highest degree and kind of freedom. The heaviest stress, under the circumstances, must fall upon the creation of the state. From this follow two of the most characteristic features of Hegel's political philosophy. First, he continually implied that no genuine conflict of interest ever can arise between individuals and the society they belong to, and second, the state is continually represented as standing for the highest possible ethical value. These two phases of Hegel's philosophy, though they are perfectly comprehensible when viewed in the light of the circumstances in which he wrote, are nevertheless the causes of very great confusion in his thought.

Starting from the position that individual good and right must always involve the finding of a significant social work with which private interests may be identified, Hegel was led at times to the very different conclusion that a good citizen need do nothing but conform to the existing state of affairs in his society. It was characteristic of him that he repeatedly equated individual choice with mere caprice, sentimentality, and fanaticism. Again and again he branded the right of private judgment as a merely "superficial" thing. From such passages it might easily be inferred that he believed the primary duty to

be simply obedience. Yet he certainly believed that, in some sense which he could never make clear, the modern state succeeds better than the ancient in respecting the individual's independence and right of choice. He certainly believed that a higher form of personal liberty was the unique contribution of Christianity to European civilization. As an historian he was even inclined to admire the iconoclasts, and he was quite aware that the man who defies society at the dictates of his own conscience may become the most valuable of social forces. Hegel never explained how this can be compatible with the opinion that the right of private judgment is mere caprice.

The same sort of confusion was caused by the assertion that it is the state which embodies the highest ethical values. Hegel never seriously undertook to show how the huge, impersonal modern state can be a centre for all a modern man's interests, or how citizenship can overlap and include all phases of personal morality, as it approximately did in the city-state, and as Hegel thought it ought to do. To be specific, the place that should be assigned to religion and art was left highly ambiguous. Strictly speaking, Hegel ought to have regarded both as the creations of the national spirit and sometimes he does so represent them, but as yet nationalism had not reached that pitch of impudence which permits to it regard Christianity as peculiarly German. Certainly Hegel's political philosophy never reached any clear theory of the relation between churches and the state. His hostile estimate of Roman Catholicism and of German pietism, and his quite uncritical admiration for Lutheran Protestantism, bear witness to an overmastering aspiration for German unity, but they already foreshadow the fate of German liberalism after 1848. To label this freedom was a paradox rather than an explanation; but the nation as a whole acquiesced in Hegel's judgment that other ends are secondary as compared with the formation of a state.

THE STATE AND CIVIL SOCIETY

The idealization of the state which was suggested by Hegel's theory of the relation between the individual and society was completed by a second main characteristic of his political theory—the broad distinction which he drew between the state and civil society. From the beginning he believed that the modernizing of Germany was prevented by the remnants of feudalism in the empire, which resulted in a radical confusion of public and private law. As he conceived it the state was no utilitarian institution, engaged in the commonplace business of providing public services, administering the law, performing police duties, and adjusting industrial and economic interests. All these functions belong to civil society. They must, of course, be adjusted to the needs of the state, which stand far above them in importance,

and the state may regulate and supervise them as occasion requires, but the state does not itself perform them. The state is not the means but the end, the rational ideal in historical development and the truly spiritual or intelligent element in civilization. Hence the romantic idealization so typical of Hegel's description of it as the absolutely rational, the divinity which knows and wills itself, the eternal and necessary being of spirit, the march of God in the world, and much more to the same effect. Hence also the fact that for Hegel the essential nature of the state appears more clearly in war and in foreign relations than in the peace-time working of its internal constitution. In war the utilitarian nature of civil society is obviously subordinated, and in its relations with other states the supreme duty of the state to preserve itself, its superiority to treaties and any form of international organization, and its right to be judged only in the court of world-history, are manifest.

This subordination of civil society to the state by no means implied contempt for the former or an inclination to disregard economic and administrative problems, but the contrary. The economic life of society and even the homely details of its administration are glorified as the humble but necessary agencies upon which the state, with its august mission, depends. Among books on political philosophy of its date, Hegel's *Philosophy of Right* was remarkable for the seriousness with which it treated trade and industry. Moreover, Hegel was undoubtedly charmed by the apparent paradox of civil society. It is founded, according to his view, explicitly upon individual self-seeking, and yet it works out to a system of mutual co-operation. In this he saw, of course, the working of the hidden forces of reason upon caprice, much as Adam Smith had seen in it the working of an "unseen hand." Out of a swarm of apparently accidental details and individual motives there arise necessary laws which govern the whole process, as gravitation governs the motions of the planets. Given a totally different estimate of the value of the national state, it is not impossible to see how Marx could advance from the dialectic and from Hegel's view of civil society to the economic interpretation of history.

This separation of the state from civil society was wholly out of accord with the English tradition in political philosophy, and to a large extent meaningless from the standpoint of English and French political experience. On the other hand, it corresponded quite accurately to the experience of Germany. Manifestly the problem of creating a central government in Germany, with its multitude of independent princes and free cities, was something quite different from the problem of existing national government in England and France. German national government was predetermined to be of the federal kind, arising by the association but not the amalgamation of the existing local governments. Hegel himself was quite aware of the

difference. In his early work on the *Constitution of Germany* he had expressed a low opinion of French centralization and this was repeated in the *Philosophy of Right*. Highly centralized government such as the republican and Napoleonic eras had produced in France he regarded, with a good deal of justification, as merely the obverse of individualism; if the citizen is to figure only as an isolated person, the state will figure as the only form of corporate life. This Hegel held to be undesirable in itself and wholly impossible in Germany.

On the other hand, English parliamentarism appeared to him to be merely a modified form of class-government by an aristocracy, a judgment quite comprehensible at the time. A thoroughgoing dislike of government by an hereditary patrician oligarchy was one of Hegel's earliest political convictions, and that English government belonged essentially to this type was one of his maturest judgments; it lacks *der grosse Sinn von Fürsten*.[1] His reading of modern history had convinced him that the monarchy had everywhere been the agency of national unification, and this led him to the conclusion that constitutional monarchy is the distinctively modern form of government, the form in which the spirit of nationality must realize itself. In view of the unique importance of German monarchy in the later nineteenth century, Hegel's mystical reverence for the monarch was not without insight.

From Hegel's point of view, therefore, the state is not composed primarily of its individual citizens. The organization of lesser communities and corporations is united in a political and social hierarchy of which the state is the apex. The people, considered as individuals, are merely a formless mass. Only as members of estates, of classes, of guilds and associations (*Genossenschaften*), and of local communities do they acquire moral dignity and the right to participate in the life of the state. The persistence of guild-organizations appealed to Hegel as a valuable feature of German economic life, and he commented on their disappearance in England and France as accounting for distinctive aspects of English and French politics. For Hegel, therefore, the distinction of civil society from the state was essential. The individual is 'mediated' by a series of communities from the family at the bottom, through the estates and the associations in the middle, to the state at the top. The state must be conceived by principles quite different from those which govern its subordinate members. Its strength lies precisely in this balance between the sovereign above and the subsidiary communities below.

Much light is thrown upon this conception by Hegel's efforts to deal

[1] On Hegel's judgment of aristocracy in Bern, formed during his residence in that city (1793–96), see H. Falkenheim, "Eine unbekannte politische Druckschrift Hegels," *Preussische Jahrbücher*, Vol. 138 (1909), pp. 193 ff. On English government see his essay, *Ueber die englische Reformbill* (1831), *Werke* (ed. by Lasson), Vol. VII, pp. 291 ff.

with the problem of political representation. For the reasons already stated the representation of individuals upon an arbitrary territorial basis appeared to him to be almost meaningless. Very early in his life he expressed his distrust of this device—supposed to be the very essence of responsible constitutional government—for a population without political experience. In the *Philosophy of Right* the legislature was treated as the point at which the institutions of civil society make contact with the state. What needs to be represented, therefore, is not the individual but the significant spheres (*Kreise*), or interests, or functional units, of civil society. In the essay on the English Reform Bill, written just before his death, the same principle was used in criticism of the projected popularizing of the suffrage. Hegel spoke with approval of the conservative argument that the great interest of the nation ought to form the basis of representation. There was no doubt in Hegel's mind at any time that constitutional monarchy implied representation in some form, nor that representation by the estates was unsuitable to the existing state of society, but he felt only distrust for popular representation on the basis of numbers alone. His conception of the state was necessarily federal, but he envisaged federal government in a somewhat medieval form, not as a territorial but as a functional federalization. What he desired, and what for obvious reasons he was unable to formulate satisfactorily, was a revision of the estates to fit society as he found it. Undoubtedly he failed to appreciate the disintegrating force of modernized industry. At the same time his arguments against numerical representation had strength, and they have reappeared recently in the writings of guild-socialists and elsewhere.

HEGEL AND LATER POLITICAL PHILOSOPHY

The social philosophy of Hegel, despite the forbidding technicalities in which it was stated, had a direct and intimate relation to the national history of Germany. It was a reaction to Germany's bitter national humiliation at the hands of France, an expression of her aspiration for national unity and more particularly of the determination to create a national state consonant with the unity of culture which the German people already possessed. The result was a theory of the state which had no precise counterpart in the political thought or experience of France or England, an idealizing of force and an almost philistine contempt for ideals apart from force. This conception of the state persisted in Germany throughout the century and obtained a degree of familiarity and general acceptance such that it could eventually be stated—by an historian like Treitschke, for example—without special reference to the philosophy of Hegel. In some of its main outlines this theory of the state depended upon conditions peculiar to Germany. It assumed a federal organization of the state in which local com-

munities retained a degree of cultural independence under a dominant political leadership, and similarly it assumed a distinction between the state and civil society and attributed superior importance to the former. For this reason if for no other a doctrine of individual rights was no intrinsic part of this theory of the state. In its larger social aspects the Hegelian theory applied to a situation in which the progress of industrialism and modernized government depended not on a policy of *laissez faire* but upon strong political leadership. In the first half of the century this situation was peculiar to Germany; as the century advanced and as industrialism changed in character, it tended to become true elsewhere. As nationalism lost its early implication of democracy and individual rights, and as industrialism passed out of the stage in which a free market was its main objective, Hegel's idealized state became a suitable vehicle for conservative or reactionary nationalism.

It would be unfair, however, to represent Hegel's political philosophy as merely a reflection of the situation in Germany. The quality of Hegel's mind and the nature of his philosophical interests would always have caused him to bring a local situation into the general sweep of European history and his own philosophy into the current of all modern thought. Viewed from this angle his conception of universal history was an effort to fill the place left vacant by the disintegration of the system of natural law, and the dialectic was an effort to set aside the ruthless analysis of Hume, by which the course of events had been robbed of a logically necessary continuity and the values of civilization in religion, morals, and art had been reduced to the level of social and human utilities. For this purpose he adopted the idea of the general will already incoherently suggested by Rousseau, a vital or spiritual principle of synthesis inherent not in individuals but in communities and the manifestation of a larger spiritual force that makes the core of reality itself. The unfolding of this internal principle in things supplies a pattern of cosmic evolution, or what interested Hegel more, a plan for the development of civilization in which each nation lives and acts the part required by its relation to the whole. History is, as Burke had said, a "divine tactic." But Hegel aspired to bring this insight of religious mysticism into the actual writing of history and to provide in the dialectic an instrument of intellectual synthesis by which "the march of God in the world" could be actually made manifest. This grandiose project was partly but not wholly the product of a romantic imagination. What commended it to Hegel was its subtle combination of absolutism and relativism, of historical positivism and speculative dogmatism. The values behind history are absolute and eternal; their manifestations in any age or any society are partial and fleeting. Even the utilitarian conventions have a universal meaning. In place of the eternal system

of natural law Hegel put the rational unfolding of the Absolute in history.

The temper of present-day historical scholarship is, of course, radically opposed to speculative generalizations on any such scale as Hegel contemplated. The myriad exceptions that scholars found to the logical patterns imputed to history by Hegel did as much as anything to undermine the prestige that his philosophy enjoyed in Germany at the close of his life. But the failure of the project can hardly rest on the prudence or timidity of scholars. Its validity depends in the last resort on whether it is feasible to set aside Hume's analysis, which made it impossible to impute logical necessity to history or more than human meaning to moral values. In other words, the question is whether a theory of universal evolution uniting under a single principle the whole development of civilization can be any less a speculative confusion than the system of natural law itself. This question concerns more than Hegel's idealism, because the dialectic was immediately adopted by Karl Marx, who rejected idealism altogether. He admitted that the dialectic as Hegel used it was filled with "mystifications," or verbalism, but he believed that these were removed by converting idealism to materialism. The general form of dialectic and the outlines of a general theory of social evolution based on it might still stand. This type of social philosophy, with dialectical materialism as its logical instrument, has been carried forward into the theory of contemporary communism. The question, then, is how far this change from idealism to materialism really removed the philosophical difficulties inherent in the idea of a necessary law of historical development and in dialectic as a way of making it manifest.

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CHAPTER XXXI

LIBERALISM

THE reaction against the system of natural rights which began with Rousseau and Burke and which culminated in Hegel did not succeed in destroying the individualist tradition which formed the main strand of political thought in the eighteenth century. In English politics the revulsion against the French Revolution delayed the progress of parliamentary reform, but after 1815 this was renewed and began a process of democratization which ran through the nineteenth century. These liberal reforms proceeded under the guidance of the same individualist preconceptions that had been characteristic of earlier radical thought. Utilitarianism agreed with Hume in rejecting natural rights as a theory, but for practical purposes it assumed the primacy of individual rights and the desirability of leaving to individual freedom as large a scope as was compatible with public order. Freedom of thought, speech, and action were fundamental liberal values, as they had always been taken for important natural rights. Especially in its earlier history liberalism was as much inclined as natural rights to judge social well-being in terms of individual happiness. Not until late in the nineteenth century was there any considerable infiltration into liberal thought of the collectivist criticisms of individualism by Rousseau, Burke, and Hegel.

Liberalism was individualist also in the sense that it stood generally for the independence of private enterprise from political control and consequently for freedom in exercising rights of property. It was a new form of middle-class social philosophy partly replacing and partly revising the philosophy of natural rights. The revolutionary implications of the latter theory were laid aside, but there remained a conflict of interests between commercial and industrial capitalists on one side and landowners on the other. Against the privileged political position of the latter class economic liberalism was a forcible argument. As the nineteenth century advanced, the relation of liberalism to economic individualism became more complicated. In the first place, the interest of industrial and commercial capitalists in freedom of trade diminished as England lost its superiority over other countries in industrialization, and also as business was organized in larger and larger units. In the second place, the opposition between landowners and capitalists was, in the long run, a vanishing issue. As time went

on it was more and more replaced by that between capitalists and wage-earners, with the result that the body of liberal ideas has tended to divide between conservatism on one side and some form of socialism on the other.

The philosophy of liberalism was in the main English but with an infusion of French and later of German thought which modified it without altogether breaking its continuity. In the first place the philosophy of Bentham was the traditional utilitarianism of English ethics conveyed to him chiefly through Helvetius and therefore modified by the philosophical radicalism of pre-revolutionary France. The economic theory attached to Bentham's philosophy and developed most systematically by Ricardo had behind it the English tradition of Adam Smith, but it was more influenced than Smith had been by the rationalism of the French Physiocrats. In the last generation of the utilitarians John Stuart Mill carried forward the tradition which he had learned from his father and from Bentham, but he combined with it ideas which he got from Auguste Comte and indirectly from Germany through the English influence of Coleridge and Carlyle. Finally, Thomas Hill Green undertook to restate a liberal philosophy on the footing of an ethical idealism that he attributed to Kant and Hegel, but which retained a substantial reference to liberal English divines and the study of Aristotle. Thus it is convenient to distinguish three periods or stages of liberal political philosophy: first, the rather well-systematized radicalism in jurisprudence, economics, and politics usually called Benthamism and falling between his first publication in 1776 and his death in 1832; second, the supplementation of the original body of liberal ideas with extraneous and sometimes incompatible modifications chiefly by John Stuart Mill; and third, the attempted reorganization by Green and other idealists beginning about 1880.

THE CALCULUS OF PLEASURE

The Benthamite liberals had a consistent programme of legal, economic, and political reform which they traced back to the ethical principle of the greatest happiness of the greatest number and to which they gave a somewhat deceptive appearance of system by their preference for a formal and deductive manner of presentation. In truth the members of the group, including Bentham himself, were always deficient in any real grasp of philosophical principles. The order in which the parts of the system were produced is significant. Originally Bentham was interested almost solely in legal reform. By inheritance he was a Tory in politics, and the French utilitarianism which he borrowed had been addressed as much to enlightened despotism as to political liberalism. He came to be interested in the reform of parliament only when he became convinced that legal reform was

impossible without the extension of the suffrage and the improvement of representation. The economic theory of the utilitarians, mainly the work of Ricardo, was associated from the start with the practical purpose of freeing commerce from restrictions imposed by a protective tariff and the navigation laws, and this in turn required the breaking down of the political monopoly enjoyed by the landowning class. It was only when these practical purposes were by way of being achieved that James Mill undertook a theoretical examination of the psychological and philosophical principles upon which the group had always professed to rely. His *Analysis of the Phenomena of the Human Mind* was published in 1829, when he was already fifty-six years old. The result was a foregone conclusion: the book systematized the associational psychology developed by David Hartley and others during the preceding century but in a deductive and dogmatic fashion that contributed nothing to bring the theory into line with psychological observation.

Bentham's first work, the *Fragment on Government*, published in 1776, was a criticism of Blackstone's *Commentaries* and through him an attack upon the whole legal profession, which Bentham pursued with a reformer's rancour throughout a long life.

> A passive and enervate race, ready to swallow anything, and to acquiesce in anything; with intellects incapable of distinguishing right from wrong, and with affections alike indifferent to either; insensible, short-sighted, obstinate; lethargic, yet liable to be driven in convulsions by false terrors; deaf to the voice of reason and public utility; obsequious only to the whisper of interest, and to the beck of power.[1]

The forefront of Bentham's criticism was that Blackstone praised the law of England and the constitution under the pretence of describing them. What the law is and what it ought to be are quite different things, and criticism is at least as useful as description. The difficulty is that Blackstone has no social principle for criticizing the law. He retained the old fiction of contractual limitations on political power and of indefeasible rights which, Bentham argued, Hume had already shown to be either meaningless or confused appeals to the clear principle of utility. Moreover, he retained the old myth of mixed government and the division of political power between king, lords, and commons. Against this Bentham argued that legal power must by its nature be independent of any legal limitation; to speak of what it cannot legally do is a mere abuse of words. What it ought to do can be intelligently discussed only in the light of the greatest happiness of the greatest number. Thus Bentham put the principle of utility squarely in opposition to natural law, as Hume had already done, and set up the constitutional principle of absolute legal sovereignty against any theory of mixed government. These political principles were

[1] Preface (2nd ed., 1823), pp. xx f.

quite general and had no reference to the difference between liberal and despotic government, since utility is the test of all government and so-called free governments have an unlimited legal sovereignty.

The criticism of natural right in the *Fragment on Government* came to Bentham, as he himself said, from Hume; his next work, the *Introduction to the Principles of Morals and Legislation*, privately printed in 1780 but not published until 1789, was inspired by Helvetius. This book showed the reason for his interest in the principle of utility; it was to serve as the ground for a philosophical jurisprudence which should be at the same time a handbook for legislators. This is possible because pleasure and pain constitute at once a standard of value and the causes of human conduct.

> Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne.[1]

Consequently the wellbeing of society is in the hands of the skilful legislator; he can foresee as the end a state of society yielding the greatest happiness to the greatest number and he can also realize that end through laws which annex to undesirable conduct the motives required to deter men from it. As Bentham says, the legislator can "rear the fabric of felicity by the hands of reason and of law." It was his purpose, therefore, to unite psychology, ethics, and jurisprudence precisely on the lines already suggested by Helvetius; the wellbeing of society is within its own reach if law is directed to the reasonable end of utility by a reasonable regulation of human motives. The juristic problem is essentially the correct allocation of penalties to produce desirable results. Thus the conception of constitutional law in the *Fragment* was extended to the whole system of civil and criminal law. Its limitations are not legal but psychological or ethical, fixing on the one hand what law can do, and on the other what it can wisely try to do. Moreover, law is by definition a command that has a penalty attached to it, for the penalty makes conduct amenable to the legislator's will, and a right in one person implies that his freedom of action is guaranteed by the penalty which prevents any other person from invading it. Applied to the legislator the word duty is meaningless; applied to the subject it means simply that he is deterred by a penalty from conduct that might otherwise appeal to him.

The psychological part of Bentham's system, accordingly, consisted mainly in an apparatus designed to make possible a calculation of pleasures and pains as motivating forces. He assumed that they are commensurable, a given amount of the one offsetting a like amount of the other. They have four 'dimensions' or phrases of effective

[1] Ch. i. sect. 1.

influence: intensity, duration, the certainty with which they attend a given kind of act, and the remoteness in time at which they follow. Since one pleasure or pain will probably induce another, the relations between them must be taken into the calculation. And if several persons are involved, as would always be the case for a legislator, the number of persons concerned would have to enter into any calculation of the greatest happiness. Apparently Bentham really believed that the balancing of these increments of force explained how human beings act, but in fact he had very little interest or skill in psychological observation. The calculability of motives was a postulate necessary to an exact science of legislation. Hence the psychology was designed to issue in a careful study of the utilitarian rules that should be followed to make legal penalties effective. In general outline this part of Bentham's work was much like the results already reached by Beccaria, another follower of Helvetius, but it was both more elaborate and more systematic. The basic principle is that punishment is in any case an evil which can be justified only in so far as it prevents worse evils. The test of law is its efficient and economical control of conduct in the interest of the greatest happiness. It does not appear that Bentham was much moved by purely humanitarian interests such as the reformation of criminals, or at this time by a preference for liberal political institutions. The driving power of his own mind was enlightenment; he meant to offer to rulers, despotic or liberal, a release from blind custom and bungling, in the interest of general happiness but not especially in the interest of the unfortunate.

Bentham's jurisprudence really did not follow so exclusively from the principle of utility as he himself supposed. His argument tacitly assumed elements from the system of natural law. Thus he assumed that in calculating the greatest happiness each is "to count for one and no one for more than one," though it is obvious that there is no logical relation between the greatest happiness (assuming that a sum is possible) and the happiness of the greatest number. In effect he took for granted the natural law of equality, without reference to its utility. Similarly he assumed that utility refers to the advantage or disadvantage of the individual members of a society, the community itself being a "fictitious body" which has no interests other than those of its members. In substance this was identical with the assumption that a natural harmony of individual interests can be produced. As a result the concept of public interest was as effectively restricted by Bentham's jurisprudence as by natural law. The interests to be protected are always those of individuals, and by preference those of assignable individuals. Offences against the public he regarded as usually against government. An injury to a property-right, therefore, is much easier to show than, for example, an injury to public health, since the one falls on assignable individuals while the incidence of the latter is usually speculative.

Accordingly, though Bentham rejected a contractual theory of government, his jurisprudence put a premium on extending contract as much as possible in the sphere of private relations.

JOHN AUSTIN

Bentham's works on law fixed the point of view of positive or analytic jurisprudence. So far as concerned political theory this centred in John Austin's theory of sovereignty,[1] though the latter did little more than bring together ideas that were scattered through Bentham's works. Austin's purpose, like Bentham's, was to discriminate between law and morals, and between the positive law which the courts will enforce and practices which are sanctioned only by usage. His primary object, therefore, was to build up an exact juristic terminology and to present a clear outline of the organization of a government's legal powers. The greatest happiness of the greatest number supplies a standard of value for both law and morals; positive law is distinguished from positive morals because the former has behind it the sanctions applied by a political superior, while the latter has behind it only the unorganized influence of public sentiment. On the side of politics Austin's theory of sovereignty was essentially a formal analysis of the concept of delegated authority. Delegation, at least if it is to be clear in its bearings, must proceed from a single source while the source itself must be above delegation and so above legal control. The source, again for purposes of clarity, must be determinate or clearly discernible. The nerve of the theory was Bentham's passion for clearness and simplicity of organization. Both Bentham and Austin assumed somewhat too easily that what is logically clear must also be real. They regarded government as merely certain determinate persons set apart to rule others and endowed for that purpose with power, while the bond between rulers and their subjects is merely the habit of obedience in the latter. In any actual government the facts are not so simple as this description implies, as is apparent when one tries to specify the persons in whom sovereignty is vested. Moreover, the word habit does less than justice to the massiveness and objectivity of the institutional arrangements that all governments include and to the historical development of such institutions.

LIBERAL ECONOMIC REFORM

Bentham's use of the principle of utility in jurisprudence did not

[1] His lectures on jurisprudence were delivered between 1828 and 1832 at University College, London, then newly founded under Benthamite influence. They were published in the *Province of Jurisprudence Determined* (1832), which was later incorporated in the more extended *Lectures on Jurisprudence* (1861–63).

arise in the first instance from political liberalism nor was the latter logically implied by it. When the *Principles of Morals and Legislation* was published in 1789, the cause of legal reform was hopeless in England, especially since Bentham regarded codification as a necessary step towards simplifying and clarifying the law. The enlightened despot seemed still to be the utilitarian's best hope. Hence it was natural that he should have preferred to address himself to a Continental public by securing the publication of his later works on jurisprudence in French. It was not until the 1820's that his ideas came home, so to speak, to England by the translation of these French works, or in new works such as the *Rationale of Judicial Evidence*, which John Stuart Mill edited from his manuscripts and published in 1827. In the meantime, about 1808, James Mill convinced Bentham that the reform of parliament was the only condition upon which legal reform in England was possible. Thereupon he made himself the head of a group of political reformers who sought to popularize English government as a means to economic liberalism and legal reform. After 1820, therefore, Bentham's jurisprudence became a real power. The reform of prisons, the simplifying of procedure, the removal from the law of technicalities and fictions, the reduction of costs and delays of litigation, and the abolition of savage but inefficacious penalties had been bones of contention for years between Bentham and the legal profession. The improvements in English law in all these respects made during the nineteenth century were in no small degree a result of his influence. Though he added little or nothing to utilitarian theory, he brought to England the French secular version of that theory and freed it from the academic and theological affiliations that it had retained at home. The change in radicalism which this implied was as great as the change in Bentham's own political opinions. The utilitarian radicalism of the 1820's abandoned both revolutionary policy and the socialist aims of reformers like Robert Owen; it became the intellectual stimulus to an effective middle-class reforming movement.

The economic aim of this movement was primarily the repeal of legislative restrictions on freedom of trade, particularly the tariff by which the English market for grain was protected in the interests of English agriculturists. This in turn required the breaking of the landowners' control over parliament and the extension to the commercial classes of political power more nearly proportional to their economic importance. The abuse was of long standing and might have been reformed sooner had the French Revolution and the Napoleonic wars not added to the power of reaction. The depressive effect of the peace of 1815 on the market for manufactured goods started an agitation which finally brought the parliamentary reform of 1832, which in turn eventuated in the repeal of the Corn Law in 1846. The economic theory associated with this reforming movement—the so-called classical

economics or the theory of *laissez faire*—was the work of many hands and included elements taken from Adam Smith and other English writers and also elements taken from the Physiocrats and later French writers. It was given its most important statement in David Ricardo's *Principles of Political Economy* in 1817, though Ricardo built especially on Malthus's theories of population and rent. But classical economics was not merely a part of Benthamite liberalism; it was a significant stage in the growth of economics and a crucial factor in the development of political and social theory throughout the nineteenth century. Though it had itself a definite political purpose, it was mainly responsible for setting politics and economics apart as distinct subjects. This separation became a characteristic feature of liberal political thought, accounting for the fact that the two were brought together again only, so to speak, under compulsion.

Classical economics purported to be a logical and systematic whole. In point of fact it included two different factors which, if not actually incompatible, represented points of view that were distinct and implied two diverse ideas of economic society. On the one hand, it included a theory of the exchange of goods in a freely competitive market such that prices are fixed by the conditions of the market itself. From this point of view society was simply the market, the individual producers each bringing his goods and exchanging them with other like individuals, buying as cheaply as possible and selling for the best prices obtainable. The classical economics, however, was also a theory of the way in which, under the conditions of a free market, the total product of a society would be divided among the producers. It was, therefore, a theory of rent, profits, and wages, these being the forms in which wealth would be divided among the chief classes producing it. From this point of view an economic society was a system of classes rather than of individuals. The difference between these two points of view was considerable, because a free market was conceived, in the long run at least, to serve the interests of all alike. The operations of the market continually produce a natural harmony of interests, so long as monopolies or other interferences with free exchange are not permitted. Between the classes, on the contrary, there is a diversity of interests which arises inevitably from the economic system. Rent, for example, must be paid at the cost of wages and profits.

NATURAL HARMONY AND THE CONFLICT OF CLASSES

The first of these two contrasting points of view was developed in the labour-theory of value, the hypothesis that in a competitive market the value of commodities is fixed by the amount of labour necessary for their production. By Ricardo this theory was apparently intended as a first approximation to a theory of prices, since he supposed that

prices would fluctuate about value according to temporary conditions of supply and demand. However, the labour-theory of value had had, from the time of Locke, a prevailingly ethical connotation: it meant that the right to property arises from the fact that the labourer 'mixes' his labour with the goods he produces. If in a freely competitive market goods are exchanged according to the amount of labour that produces them, it seems to follow that buyers and sellers must in general (temporary fluctuations of supply and demand being neglected) put in and take out equivalent amounts of value. The 'natural price,' or value, would also be a just price, and on the whole everyone would keep a value equivalent to the labour which he had himself put into the goods he had to sell. It is hard to believe that the labour-theory of value did not commend itself, if not to Ricardo at least to disciples like J. R. McCulloch, mainly because it offered an ethical justification of the competitive system, as a way of presumably giving to every man the just price of his labour. In so far as it did this it obviously depended upon accepting in economics the system of natural law or natural liberty, as the Physiocrats explicitly had done. In other words, it assumed a general harmony of nature and natural justice realized in the economic system, in so far as human legislation abstains from introducing 'artificial' obstructions into it. The free play of human motives, each in itself egoistic, is supposed to work out to the greatest good of the community and the nearest practicable approach to justice for all its members.

However consistent such a belief may have been for the Physiocrats, it is hard to see what right a utilitarian had to it. If natural justice in law and ethics is, as Hume and Bentham had argued, a fiction which amounts to nothing but a confused appeal to utility, it cannot be more than this in economics. If there were a law of natural justice controlling a competitive market, it would of course follow that a policy of *laissez faire* was the right one to follow, as liberty was the logical deduction from natural law in politics. But liberty was emphatically not the deduction that Bentham had drawn from substituting utility for natural law in politics and jurisprudence. Utility, he had agreed, does demand a harmony of interests and the greatest happiness of every one, but such a harmony must be produced by legislation. For a jurist the significant thing about pleasure and pain is that they are at once a standard of value and the causes of human action, and the art of legislation consists in raising pleasure to a maximum by the skilful adjustment of penalties to acts that are immediately pleasurable but productive of pain by their consequences to the greater number. In his jurisprudence Bentham was absolutely clear on this point; he consistently refused to name liberty as an object of law, because law exists solely to make men do what they would not do without it. Social harmony, therefore, is created by legislative coercion. According to

classical economics harmony in the economic system is produced by the absence of legislation.[1]

The harmony of interests that prevails in a competitive market is very different from the contrariety of interests that the classical economists saw in the distribution of the total product of an economic society. Here the crucial point was the theory of rent which was the joint work of Malthus and Ricardo, supplemented by the theories of population and of wages and profits. Land is peculiar in that it is limited in amount and of varying fertility. Obviously a cultivator can afford to pay more for fertile than for infertile land, since larger crops can be raised with an equal expenditure for production. At the margin there may be assumed to be land of such fertility that what it produces would just pay the costs of production, and for such land no rent could be paid. For more fertile land the owner could exact a rent equal to the difference between the product of that land and the product of marginal land. It follows that the amount of the product which the landowner can divert to himself contributes in no way to increasing production but is simply deducted from what the rest of the community receives. As Ricardo said, "The interest of the landlord is always opposed to the interest of every other class in the community." It follows also that whatever brings land of lower fertility under cultivation will increase rents. An increase of population with higher prices for foodstuffs would have this effect. Broadly speaking it might be said that any increase in wealth and prosperity would ultimately redound mainly to the advantage of landowners, though as a class they had contributed nothing to the increase.

It must be noted that this was not regarded as an accidental but as an inevitable effect of the economic system. The key to the whole matter lay in the Malthusian theory of population. Because of the fecundity of the species anything that makes living relatively easy must increase population, unless of course fecundity were controlled by prudence or some artificial remedy. In the absence of such restraints population will always tend to press hard upon the means of livelihood. Consequently the share of the total social product that labour receives in the form of wages must amount in general (allowing for temporary fluctuations) to what will maintain it at a subsistence-minimum. Indeed, if labour is a commodity, this would be its natural price, since it would represent the value that goes into producing the labourer as an economic machine. The share that labour can get is therefore a constant quantity. The share that goes to rent will tend to increase with the advance of wealth and population, while the share that goes to capital in the form of profits will tend similarly to decrease. This picture of what might be called the normal history of a capitalist society

[1] This difference is developed by Halévy, *The Growth of Philosophic Radicalism*, trans. by Mary Morris (1928), *passim*, especially Part III, ch. i.

considered as made up of economic classes was strangely unlike the picture of natural harmony that was said to prevail in a competitive market of freely exchanging individuals. Certainly such a society could not be called a system of natural justice, and the utilitarian economists did not think that it was. The point of the theory was to show that the landowner was a parasite who lived on the labour of the producing classes. More especially, he lived on the capitalists, since labour would get only a fixed amount in any case.

What held together the idea of a naturally harmonious economic society and the idea of naturally conflicting classes was not so much logic as the fact that both ideas appeared to converge on a practical result important to the classical economists. This was the freeing of trade from legislative control. This conclusion would follow obviously from the theory that economic society is naturally self-regulating by unrestrained competition. Since the restrictions to be removed were tariff laws favourable to the high price of food, a like result could be deduced from the theory that landlords profit at the expense of other classes. But while the first argument, based on a natural economic society, implied *laissez faire* under all circumstances, the opposition of class-interests would not necessarily do so. For one thing, there are many economic rents beside the rent of land, and moreover taxation is certain to burden economy somewhere. There is evidently no reason why the legislator, assuming that he can do something to increase the sum of happiness, should not at least utilize taxation to mitigate the struggle between classes. Of course, the proper utilitarian questions would remain, namely, what can he accomplish, and what risks does he run of doing more harm than good, but legislative interference would not be excluded in principle. James Mill, for example, discussed the advisability of using taxation to increase capital. He concluded that it would probably work badly, but he did not deny that it was economically possible. The utilitarians believed that the only effective means of economic improvement lay in the control of population, but this was mainly because they did not choose to explore other possibilities of their own theories. Henry George's *Progress and Poverty* (1879), which affected so powerfully the young Englishmen who were about to form the Fabian Society, differed from classical economics mainly in its author's desire to consider legislation as a means of economic control.

Classical economics contained logical difficulties that made it an easy prey to critics once the external forces were removed that made it seem cohesive. It relied on natural rights in economics while at the same time its defenders denied natural rights in ethics and politics. It was an element in a party programme that made it avowedly a defence of the interests of the commercial classes against landowners. By implication it was no less a defence of the rights of capitalists against wage-earners. In so far as the labour-theory of value was

turned into a defence of the natural justice of a competitive labour-market, it was most unfairly applied. Goods were asserted to exchange according to the amounts of labour contained in them. But in a system of capitalist production what was denominated labour had to include capital invested in machinery and the like. This the theory called "accumulated labour," but it was obviously not the capitalist's labour that was accumulated in it. The wage-earner, therefore, was supposed to be justly compensated for his own labour, while the capitalist was compensated for all the accumulated labour of other men that he had in some way got his hands on. Both wages and property-rights to capital were defended as natural, neglecting the fact that the latter especially were the result of historical and institutional accident. It was these qualities of partiality and lack of historical sense that exposed the classical economics to the criticism of Marx.

LIBERAL POLITICAL REFORM

The political liberalism of the Benthamite radicals was closely related to the economic analysis that led them to regard the interests of landowners as opposed to those of all other classes. Before economic reforms were possible, it was necessary first to destroy the dominance of the landed interest in the House of Commons. James Mill, in an article contributed to the newly founded organ of the radicals, the *Westminster Review*,[1] estimated that effectively the House was chosen by some two hundred families, to which the clergy of the Established Church and the legal profession were substantially adjuncts. Between the two existing political parties there was, he said, practically no difference except that the one in opposition was bent on securing the patronage enjoyed by the one in power, without changing the monopoly by which both profited. English government is absolutely an organ of class-interests. Both parties represented a small ruling class, mostly landowners, with some small infiltration of the monied interest because of the prevalence of bribery. The problem of politics, as it appeared to James Mill, was to secure a legislature whose interests would be identical with those of the country, by which he meant really the interests of the industrial middle class. The best type of community, he believed, was one that had a large and prosperous middle class; believing as he did that wages were fixed by natural economic laws, he did not contemplate the possibility that the middle class might use political power for its own advantage.

The earlier utilitarians were liberals, as John Stuart Mill later said, not so much because they believed in liberty as because they believed in good government. They rejected natural political rights and cumbersome constitutional devices, such as the separation of powers,

[1] Vol. I, p. 206; on the *Edinburgh Review*.

by which such rights were supposed to be protected. They believed, however, that the problem of good government lay in finding effective means to restrain those in power. Certainly James Mill, and probably Bentham, borrowed a good deal from Hobbes. All men, Mill believed, are driven by a restless desire for power to which no limit can be set except by leaving rulers no motive to use their power otherwise than for the general interest. A government is nothing except a few men delegated to exercise power over many. An exact balance of powers is impossible, and if the balance is not equal, the greater, or some combination of lesser powers to make a greater, will always dispossess smaller power. Even so-called free government is essentially power exercised by a few over many, and power is, humanly speaking, unlimited because any ruler will take all he can get. Mill asserted broadly that the only difficult questions in government have to do with restraining the power which rulers must have.

He solved the problem by a highly doctrinaire theory of representative government according to which the legislature should control the executive, while the interests of representatives must be made identical with those of the country by short terms and an enlarged suffrage. This agreed with Bentham's formula for parliamentary reform by practically universal suffrage and triennial, or preferably annual, elections.[1] The utilitarians had no illusions about suffrage being a right. They did, however, put a high estimate on the capacity of human beings to see their interests and follow them, especially if they had even a moderate amount of education. They reached the conclusion that suffrage ought to be made universal (with only temporary delays to allow education to keep pace) largely because they could see no logical place to draw a line. They were opposed to a property qualification because they believed that, if it were high, it would perpetuate class-government and if low, would have no effect. Along with a rather pessimistic estimate of human nature they retained much of the belief in progress that characterized revolutionary radicals like Condorcet and Godwin. And with an analysis of economic distribution that made a divergence of class-interests inevitable they united a political ideal that assumed the reasonableness of private judgment and the possibility of reaching a reasonable harmony of private interests. Hence they could attack the privileges of the landowning class and look forward to a liberalized government not influenced by class-interests, though in so doing they neglected the fact that a divergence of interest between capitalists and wage-earners was no less inherent in their system. John Stuart Mill described his father's point of view as follows:

[1] See James Mill's article on Government in the Supplement to the *Encyclopaedia Britannica* (1820); reprinted in *Essays on Government*, etc. (1825). Bentham, *Plan of Parliamentary Reform*, *Works*, ed. by Bowring, Vol. III, p. 433; this was written in 1809 but not published until 1817.

> So complete was my father's reliance on the influence of reason over the minds of mankind, whenever it is allowed to reach them, that he felt as if all would be gained if the whole population were taught to read, if all sorts of opinions were allowed to be addressed to them by word and in writing, and if by means of the suffrage they could nominate a legislature to give effect to the opinions they adopted. He thought that when the legislature no longer represented a class interest, it would aim at the general interest, honestly and with adequate wisdom.[1]

The liberalism of the Benthamite radicals was an intellectual force of enormous practical importance in nineteenth-century politics. Without themselves attaining the proportions of a political party, they disseminated the ideas in the light of which representative institutions were liberalized, the commercial middle class was enfranchised, and a vast amount of obsolete political and legal practice was abolished. Possibly the strength of this type of liberalism might be said to have come from a faith in the practical value of intelligence applied to social problems, which it carried over largely from the Enlightenment, together with a greater patience and thoroughness in applying intelligence to concerete problems. It is true that both in politics and in economics the early utilitarians trusted too uncritically to deductions from oversimplified premises both about human motives and social institutions, but none the less their attitude was essentially matter-of-fact. Both the classical economics and Bentham's juristic studies were intended to serve, and broadly speaking did serve, as means to an enlightened public policy. The objections against them given currency by John Stuart Mill and their idealist critics—that they neglected the history of institutions and had a falsely schematic theory of human behaviour—were true. But the implication of this criticism—that the early utilitarian theory was clear but narrow—was not true. Its most serious defect was that it was never in any profound sense clear and that no member of the Benthamite group had any real grasp of philosophical principles. The full meaning of Hume's criticism of natural law was never appreciated, with the result that this concept lingered on in jurisprudence and especially in economics, even when it was expressly disavowed. As a concealed dogma the old faith in the harmony of nature induced an uncritical confidence in *laissez faire* and in the apparatus of democracy for which a really empirical utilitarianism could have offered no justification.

JOHN STUART MILL: LIBERTY

Unfortunately, the modification of early utilitarianism which was undertaken by John Stuart Mill did nothing to effect a clarification; rather, it caused a further complication. Mill was subjected by his father to the most thorough indoctrination ever suffered by a man who

[1] *Autobiography* (1873), p. 106.

afterwards raised himself to a place of intellectual independence, and it was not until after the elder Mill's death in 1836 that he was able to strike out for himself. Innately his mind was by no means closed to influences outside the school in which he was bred, and his perfect candour inclined him to concessions that were perhaps more generous than critical. His companion-essays on Bentham and Coleridge, published in the *London and Westminster Review* in 1838 and 1840 respectively and forming what might be called his declaration of independence from James Mill, did rather more than justice to Coleridge, the intellectual stimulus to the opposition, and rather less than justice to Bentham.

Mill's open-mindedness, however, was not matched by the grasp and originality needed to make a thorough revision of liberalism. Almost it might be said that his books follow a formula. On nearly every subject his general position was a highly abstract statement of the older utilitarian theory, but having stated the principle, he proceeded to make concessions and restatements until in the end the original theory was explained away without any new principle being put in its place. Thus in his ethics, for example, he adopted the usual utilitarian standard of the greatest pleasure, but he qualified it by trying to grade some pleasures as inherently superior to others, overlooking the fact that a standard for measuring standards is a contradiction in terms. He turned utilitarianism into an ethics of personal morality, which had hardly interested Bentham or James Mill, but he made no equally important use of it as a guide to legislation. The self-confidence of the older liberals had largely disappeared. No new reform had yet taken the place in a liberal programme formerly occupied by the extension of the suffrage, which grew steadily less controversial as its accomplishment became assured. Projects of reform from which Mill hoped much, such as the emancipation of women, proportional representation, and the confiscation of economic rent, seem disproportionate to his generous ideals, while on the other hand aspirations like the independence of wage-earners lack a solid grounding in economic realities. It is true, however, that Mill's defection from the letter of utilitarian doctrine did much to set younger liberals free from the dogmas of the older liberalism.

The essay *On Liberty* (1859) was probably Mill's only abiding work on politics. Freedom of thought and investigation and the social value of untrammelled discussion aroused in him a real fervour which made his essay comparable to Milton's *Areopagitica*, though not its equal in eloquence, as one of the classical defences of freedom in the English language. In a sense this was a new note in utilitarian liberalism. Though Bentham and James Mill had assumed that free discussion was necessary to good government, they had never been much inclined to stress liberty as a personal right. Among ideals of character

intellectual honesty, candour, and objectivity appealed to Mill supremely, and in consequence freedom of thought and expression became for him ultimate social values. The argument of his essay went far beyond a merely utilitarian defence of liberty. When he said that all mankind has no right to silence one dissenter, he was certainly saying more than he could defend by the calculation of the greatest happiness; he was really claiming the right to think, to investigate, and to know as moral attributes inseparable from the dignity of a rational being. The essay was morally persuasive precisely because Mill exceeded the limits of consistent utilitarianism.

In another respect also the essay *On Liberty* departed significantly from the older liberal tradition. The enemy of private judgment which Mill mainly feared was the mass of mediocre minds and the pressure of the majority in a democratic society. Consequently the essay represented a degree of disillusionment with the results of liberalism itself. Whereas James Mill had entire faith that the power of reason would assert itself if representative bodies were got out of the hands of an entrenched minority, his son was mainly concerned about the possibility that mass-opinion, expressed through majorities, might itself be repressive. Moreover, James Mill's confidence that the working class would always follow the lead of the middle class was pretty evidently misplaced. By the middle of the century a reaction against democracy was already under way which has increased rather than decreased with time. The crowd, it is said, fears nothing so much as intellectual eminence and is more repressive and intolerant than even unenlightened despotism. Mill did not admit the argument but he clearly feared that a really free intelligence might have to be defended on more or less aristocratic grounds. Hence his essay was in a sense a defence of liberty against democracy. Similarly, his *Representative Government* treated mediocrity and the use of political power by a majority to oppress minorities as a chief danger of that form of government. For this reason he commended the plan for proportional representation just proposed by Thomas Hare as "among the very greatest improvements yet made in the theory and practice of government."

In respect to the practical implications of the doctrine of liberty Mill's conclusions do not follow a single clear principle or point to a specific result. He started upon a line which really assumed a theory of natural rights, that there is a sphere of private or self-regarding conduct within which neither society nor government ought to trespass. Upon examination such conduct turns out to be indeterminable. The argument was really circular, as Mill's utilitarianism might have taught him in advance: an individual's private concerns are by definition those that society elects to regard as such. From the standpoint of utility the problem is to find what matters sound public policy itself would leave to private choice. Mill's tendency to mix these two dis-

crepant lines of argument left his conclusions pretty much to be determined by his own inclinations and habits of judgment. Thus he regarded a rather indefinite regulation of manufacture and trade as legitimate in the interests of public health and welfare, but he objected to the prohibition of the liquor trade as an infringement of the buyer's liberty. He retained an habitual and rather illogical preference for leaving as much as possible to private initiative, while at the same time he was willing to make large and ill-defined concessions to public regulation upon a rather vague showing of need.

Mill's economic theories showed a similar mixture of motives. He started substantially from Ricardo and in principle never altered the main lines of the older theories. He became convinced, however, that classical economics had confused unchangeable conditions of production with conditions of distribution which are largely a matter of choice and policy. This change resulted from a sound perception, so far as it went, that economy depends upon historical institutions and not upon immutable laws. Accordingly Mill contemplated a legislative control of the distribution of wealth up to a point that in his later years he was willing to call socialism. While he was right in criticizing the immutable laws of distribution in the older economics, he was confused in drawing the line between production and distribution. The former no less than the latter depends upon institutions and to that extent might be affected by legislation. Moreover, it seems altogether impracticable to unite a socialist plan of distribution with a capitalist plan of production. Marx was probably right in considering this as the typical economic vice of all the utopian socialists. What Mill had to propose, however, was less important than the fact that he proposed it. He was, of course, the heir of the classical tradition, and his *Principles of Political Economy* was regarded as the standard text of the day. The mere fact that he could describe the existing state of capitalist society as one in which the produce of labour is apportioned "almost in an inverse ratio to the labour" was highly significant.

METHOD IN THE SOCIAL SCIENCES

The fundamental defect in the method which the earlier utilitarians had used in all branches of social study appeared to Mill to be a neglect of the institutional organization of society and of the historical development of such institutions. They had tried to explain both moral and economic behaviour by universal psychological causes, such as self-interest and habit, and had neglected the fact that the working of these causes is affected in every actual society by historical conditions and the institutions that history has evolved. Some such criticism was inherent in the revolt against natural law that had begun with Rousseau. By the middle of the nineteenth century it had produced

Hegel's dialectic, which purported to be a logical apparatus designed to make development intelligible. This strain of German speculation, very imperfectly understood, was gradually filtering into English philosophy through the influence of Coleridge, and Mill was inclined to be generous in estimating the importance of the English Coleridgeans. A similar line of thought, also, more systematically developed, came to Mill through Auguste Comte, who developed the idea of a law of social progress put forward by Turgot and Condorcet in the eighteenth century. Thus the conception of a necessary historical order to replace or supplement the timeless natural laws of classical economics converged on Mill from two directions. In his *Autobiography* he enumerated the most important conclusions to which these influences led him:

> That the human mind has a certain order of possible progress, in which some things must precede others, an order which governments and public instructors can modify to some, but not to an unlimited, extent: that all questions of political institutions are relative, not absolute, and that different stages of human progress not only *will* have, but *ought* to have, different institutions: that government is always either in the hands, or passing into the hands, of whatever is the strongest power in society, and that what this power is, does not depend on institutions, but institutions on it: that any general theory or philosophy of politics supposes a previous theory of human progress, and that this is the same thing with a philosophy of history.[1]

The effect upon social studies of a different valuation of history has been mentioned in connection with Hegel. It seems clear that Mill, through generosity, exaggerated the degree in which these ideas, at least in the form in which Comte developed them, were foreign to the earlier English economists. Malthus's law of population and its corollary about the increase of rent were historical laws (though intentionally contradictory of the belief in progress), at least in so far as their operation was not influenced by the prudential control of natural increase. Apparently Mill did not consider them in this light because they merely assigned the effects that causes would produce if they continued to act. But is it hard to see how any 'law' can do more than this. An unconditional law of human progress would be a kind of logical monstrosity, since it would have to describe a series of events as occurring in a predetermined order irrespective of the conditions upon which they depend. Mill was thinking primarily of Comte's historical generalization, that every branch of knowledge passes through three successive stages: the theological, in which events are explained by the will of supernatural beings; the metaphysical, in which they are attributed to reified abstractions; and the scientific or positive stage, in which explanation contents itself by merely generalizing facts and relations. This law also depends, somewhat vaguely it is true, upon conditions, the supposed tendency of knowledge

[1] P. 162.

to become more adequate as experience accumulates, to which Condorcet and other perfectionists appealed. This kind of generalization was popular in the sociology and anthropology of the nineteenth century, producing various theories of the normal stages of social evolution. They were invariably unsound in their use of empirical evidence and almost always confused in their conception of scientific law. In truth they depended less on science than on an optimistic bias which happened to be the intellectual and moral fashion. Certainly Mill rated the significance of this philosophy of history too high.

The extent of Comte's influence upon Mill can be seen in the Sixth Book of his *Logic* in which he discussed the methods of the social sciences. The mere inclusion of this subject in a general work on logic reflected Comte's ideal of a social science comparable with the physical sciences, though Mill followed the English tradition in regarding psychology as the basic science of behaviour, rather than biology which Comte put in that place. Mill took the opportunity also to declare his freedom alike from his father and from his father's critics. He rejected a purely empirical method in social studies, having in view the contemptuous article in the *Edinburgh Review*[1] in which Macaulay had attacked the deductive procedure of the utilitarians, but he admitted that the criticism was just in so far as the deficiencies of deduction were concerned. Accordingly he tried to sketch two correct methods combining induction and deduction, the one called "the direct deductive method" which was his own, the other called "the indirect deductive method" which he credited to Comte. Both presupposed an empirical science of individual psychology. The direct method consisted in explaining human behaviour in society by a deductive use of psychological laws, due attention being given to the complications of actual social circumstances, and in verifying the deduction by comparison with observed fact. The indirect method consisted in starting from an observed law of historical development and in tracing this back to its psychological causes. Mill continued to prefer the first method in so far as he regarded any generalization from history as unreliable unless it could be connected with psychological laws, which he thought scarcely possible in the existing state of knowledge. In reality Mill, like Comte himself, hardly departed in principle from what earlier writers like Condorcet had said about progress, though they were decidedly less optimistic. Both men assumed rather uncritically that knowledge does continuously increase and that in so doing it carries social improvement with it. They had, however, a livelier sense of the complexity both of human nature and of institutions.

[1] Vol. XLIX (1829), p. 159; on James Mill's *Essays on Government, etc.*

HERBERT SPENCER

The effort of Mill to broaden the foundations of early utilitarianism was matched by the somewhat similar effort of Herbert Spencer. The two men proceeded, so to speak, in opposite directions and under the stress of opposing motives. Mill was driven by native candour to suspect that neither the immutable laws of economics nor the simple political remedies of early liberalism were so certain as had been imagined; hence he modified the conclusions without, however, changing the principles. Spencer built up an almost purely deductive system of philosophy, bringing social theories into relation to biological evolution and the supposed conclusions of the physical sciences, but he left the practial conclusions almost where they had been. Nevertheless, thc effort to bring psychological and social studies into closer touch with anthropology and biology was important, apart from the achievement of immediate results. Mill's thought was fragmentary, and despite a great deal of rather schematic system-making, Spencer's was hardly less so. He professed—what was really impossible—to exhibit organic evolution as an inevitable consequence of the conservation of energy, and he undertook to connect mental, moral, and social development directly with organic evolution. To do this, however, he had nothing to rely on but the shaky theory that the effects of habit are inherited. This was in reality a biological version of the old belief that knowledge accumulates with experience. Spencer's evolution, like Mill's or Comte's law of history, was a modification of the belief in progress, which was certainly not warranted by anything in biology. At the same time Spencer united in his social philosophy a belief that society becomes more complex with the most extreme faith in *laissez faire* ever entertained by any thinker. In this respect he went even beyond the early liberals. He opposed not only every form of social legislation and industrial regulation but even public support for education.[1]

The truth is that this middle period of liberal theory, in which Mill and Spencer fell, had fallen out of touch with the purposes of remedial, if not liberal, thought and legislation. Traditional liberalism as a leader of public opinion in England reached its apex with the successful establishment of free trade in 1846. Before this, however, the social effects of unrestrained industrialism had begun to excite grave misgivings. In 1841 the report of a Royal Commission appointed to investigate the coal-mining industry shocked all England with its revelations of brutality, in the employment of women and children, in barbarously long hours of work, in the absence of safety-devices, and in the prevalence of revolting conditions of labour both sanitary and moral. The public discussion of this report and other like revelations

[1] *The Man Versus the State* (1884); *Justice* (1891), incorporated in *The Principles of Ethics* (1891–93).

added to English literature the novel of industrialism, books such as Mrs. Gaskell's *Mary Barton*, Disraeli's *Sybil*, and Kingsley's *Alton Locke*. Something must be allowed also to the literary influence, probably growing through the century, of Carlyle, Ruskin, and William Morris, who attacked industrialism and *laissez faire* on moral or aesthetic grounds. As early as the '30's and '40's parliament began hesitatingly to pass acts regulating hours and conditions of work, though this kind of legislation was contrary to the theories of economic liberalism and was opposed by eminent economists. This new legislation reflected a variety of influences. It was in part humanitarian, and this motive belonged as much to conservatives as to liberals; indeed, conservatives were not averse to visiting the sins of industrialism on their political opponents. It reflected also the more effective organization of trade-unions, which in turn betokened an approach to political power of the working class itself. The first enfranchisement of a considerable body of English workers occurred in 1867, and the effect on parliament began to appear a few years later. In the '70's the first codes of labour-legislation were passed and trade-unions were given legal protection. Liberalism had stood primarily for extending the freedom of business enterprise. For obvious reasons working-class voters were more interested in protecting wages, hours of labour, and conditions of work against the onslaughts of business enterprise. The first assumed that the competitive system must be left to regulate itself; the second that it can and must be regulated in the interest of social welfare. In the judgment of A. V. Dicey, English legislation passed out of the control of the one purpose and into the control of the other about 1870.[1]

T. H. GREEN: POSITIVE FREEDOM

A restatement of liberal political theory in the light of its relationship to this new type of social legislation was first undertaken by Thomas Hill Green. In a lecture written in 1880, on "Liberal Legislation and Freedom of Contract,"[2] he posed the question as follows. Most recent legislation that has been called liberal has abridged the freedom of contract. The older liberals sought to extend such freedom as far as was compatible with public order. Is this then an inconsistency? His reply took the form of distinguishing what might be called the spirit of liberalism from its letter. Freedom, which is the chief end of citizenship, does not consist in the absence of restraint but in "a positive power or capacity of doing or enjoying something worth doing or enjoying." Freedom of contract may be a means to this end and if so it is good, but it is not an end in itself. But freedom of contract, where

[1] *Law and Public Opinion in England during the Nineteenth Century* (1905), Lecture VII.
[2] *Works*, Vol. III, p. 365. Green's political theory is contained in his *Lectures on the Principles of Political Obligation*, edited from notes after his death by R. L. Nettleship.

the bargaining power of the contracting parties is grossly unequal, is merely formal and may lead to a result for the weaker party which no one would describe as freedom. The law has always taken the ground that some contracts must not be permitted, such as one resulting in actual slavery, and there is no reason in principle why other contracts, such as wage-contracts or those involving injury to health, may not be subjected to legislative control. The right of property, or any right, is a social institution; it exists because it is recognized as such, and the only sound reason for recognizing it is that it contributes to the common good. The essence of a liberal society is that it makes the common good available not to a privileged class but to all, so far as the capacity of each permits him to share it. The end of such a society is to increase the powers and capacities by which the individual can contribute to the common good.

Green's contrast between positive and negative freedom reproduced a line of thought which came to him both from Rousseau and from Hegel. That is to say, it reflected the rediscovery of the community as a corporate body of which both institutions and individuals are a part, so that the idea of collective wellbeing or the common good underlies any claim to a private right. In truth, however, Green was no Hegelian. He emphatically rejected Hegel's tendency to glorify the state and to justify it by substituting an ideal, very imperfectly realized, for states as they actually are. The difficulty with Green's idea of positive freedom, however, is that it can lead precisely to that shuffling with the meaning of a common word that occurs in Rousseau and Hegel. For Green positive freedom included all the elements of a good life, and there was really no gain in calling them all by one name. In fact, he owed more to Aristotle than he did to Hegel. The self-realization whose conditions a community ought to secure for its members was in the main Aristotle's idealization of Greek citizenship but with its aristocratic implications omitted. William Morris once said that the aim should be "to make life happy and dignified for all people"—the true aim for an artist. Green was before everything a moralist; he would perhaps have said that the aim was to make life morally meaningful for all people. But he had no doubt that the goods of participating in the common life must be shared by all. The most effective liberal factor in his thought was a kind of indignation at the moral degradation which modern society permits in the masses of its members, or even forces on them.

> We content ourselves with enacting that no man shall be used by other men as a means against his will, but we leave it to be pretty much a matter of chance whether or no he shall be qualified to fulfil any social function, to contribute anything to the common good, and to do so freely.[1]

Green's revision of liberalism might be described as a revival, in a

[1] *Political Obligation*, sect. 155.

new sense, of the old concepts of consent and natural law which Bentham's criticism had expelled from utilitarianism. He objected as a matter of course to the jurisprudence of Bentham and Austin, which followed Hobbes in explaining civil and legal obligation as a result of pains and penalties and which implied that social conduct is mainly regulated by fear. In Green's phrase, "will not force is the basis of the state." The community is not held together by compulsion but by the sense of a common interest or good, and fear is rather the exception than the rule among the motives that lead men to behave sociably. To this extent, Green argued, there was truth in the old belief in consent; at least, membership in a community is not foreign to human nature, and sociable conduct is not a burden that men bear only under compulsion. Similarly, there was truth in natural law, in the sense that the customs or laws that prevail at any time are not necessarily right. There is always room for improvement and criticism, because any society might more nearly achieve the end of producing the conditions that would enable its members to live a humane life. The force of moral criticism is an indispensable factor in government, and the judgment of conscience about the right and wrong of government is morally the court of last resort. This implies natural law—principles of right higher than any actual government lives up to—in much the sense which the term had in Aristotle or in the Middle Ages. The primacy which Green's form of liberalism still leaves to the individual is not a right against the community but rather a duty to apply his intelligence and his conscience to the institutions and practices of the community.

Green's general principle, that a liberal government ought to legislate in any case where the law can remove an obstacle to the highest moral development of its citizens, provided at least the framework for a wholly different conception of government from that held by the older liberalism. In place of *laissez faire* and freedom of contract it opened the way, in the name of positive freedom, for any degree of social legislation that could be justified as practically effective in improving the standard of living. Green, it is true, retained the prevailing liberal view that the presumption is against regulation and control, because he thought it good morals that men should be responsible for their own welfare so far as may be. But it is idle, both on moral and political grounds, to demand responsibility for that which is not within a man's control, and doubly idle to expect men to become responsible agents when they live in conditions that destroy the qualities of character on which responsibility depends. What Green added to liberal theory was the conception of collective wellbeing as a precondition of individual freedom and responsibility. Consequently sound social policy justifies the protection of common interests, such as public health, or education, or a decent standard of living, no less than the

protection of individual rights, such as private property. The liberal legislation which he defended assumed that the end of government is not to guarantee the greatest individual liberty but rather to ensure the conditions for at least a minimum of wellbeing—a standard of living, of education, and of security below which good policy requires that no considerable part of the population shall be allowed to fall. Thus in principle Green's revision of liberalism closed up the gap which *laissez faire* had placed between politics and economics and put on government the duty of regulating the economic system when it fails to produce humanly satisfying results.

THE TREND TOWARDS SOCIALISM OR CONSERVATISM

The conceptions of self-realization and positive freedom provide a framework for all this. The question remains whether, when the details are filled in to make a definite programme of political action, the result will be recognizable as liberalism. Green himself had no direct experience of industrialism and not much knowledge of economics, though he had been able to observe at first hand the poverty of agricultural labourers and tenant farmers. His own public service was in local government or in education, which even the older liberals had not usually wished to submit to business enterprise, and he was an ardent advocate of a stricter control of the liquor trade. It cannot be said, therefore, that he ever really envisaged the extent of the social changes that might ensue if political power were seriously put into the service of what he called positive freedom. Indeed, he thought of political obligation not in terms of an extended social control but as an individual obligation upon every man to turn his hand to the civic duties of his own station in life. What F. H. Bradley called "my station and its duties" is the only thing that can give a positive meaning to the rather vague notion of self-realization. Consequently the idea was compatible with a programme of tory philanthropy in the interest of the under-privileged classes. Yet it might also mean that the claim of every man to a morally significant place in the community rests not on charity but on justice,[1] and if taken in this sense it can supply the ethical ground for a programme of social change far more radical than anything that has commonly gone under the name of liberalism.

Hence there was a relationship of similarity at least between Green's revision of liberalism in 1880 and the ideas of the group of young men who formed the Fabian Societo a few years later. It does not appear that these men had been directly influenced by Green's teaching at Oxford, and their interests turned to the details of economics and administration as his did not. Yet they represented the same kind of change in the climate of political and social opinion, namely, a deter-

[1] Cf. L. T. Hobhouse, *Liberalism* (1911), ch. viii.

mination to use the legislative power of the state in the interest of a more humane economic and social order. A liberalism having the moral incentives provided by Green might easily be changed by force of circumstances into a form of liberal socialism, defending the nationalization of basic industries and the socializing of profits in the interest of a national standard of leisure, health, education, and subsistence, but lacking the theory of class-antagonism and the practices dependent on that theory which were characteristic of a socialism derived from Marx. Perhaps it would not be fanciful to say that Green's ideals, properly documented with concrete proposals, would in the end come to something very like the "planned co-operation in production and distribution for the benefit of all who participate by hand or by brain" which Sidney Webb wrote into the programme of the British Labour Party towards the end of the first World War.[1]

On the other hand, the thesis that the community is the guardian of all the moral values, which Green had in common with Hegel, had definitely conservative connotations. Green's most important student, Bernard Bosanquet,[2] was far more genuinely Hegelian than Green and correspondingly more inclined to trust "the inherent logic of social growth" than the social criticism of the moral dissenter. He was a little shocked by Green's suggestion that "the underfed denizen of a London yard" has perhaps not much more share in the spiritual heritage of England than a slave in that of Athens. Starting from Rousseau, Bosanquet developed a theory of the "real will" which sees the moral justification of legal or social coercion in the assumption that society represents what an individual would desire if he were fully moralized and fully intelligent. The result is highly paradoxical, since the "real will" is often something of which the individual in question is wholly unconscious.

Bosanquet's theory put a premium on the ambiguities of real freedom which Green had tried to avoid. Thus "the state" signifies an idealization of moral and rational conduct which is never realized in any existing society, while contrariwise individual judgment is identified with "ordinary trivial moods." Thus the theory carries a heavy presumption against dissent and implies, broadly speaking, that the substance of morality lies in conforming. It is of course true that individuals are continually held up by social ideals to a higher standard of action than their own will would cause them to choose, but it is equally true that states are held up to higher standards by individual criticism and dissent. It is surely one-sided to put all the idealism on one side and all the triviality on the other. Bosanquet believed that

[1] *Labour and the New Social Order*; reprinted in the *New Republic*, February 16, 1918.
[2] *The Philosophical Theory of the State* (1899). The criticism by L. T. Hobhouse in *The Metaphysical Theory of the State* (1918), may be regarded as the reaction, under stress of the War, of one phase of Oxford idealism upon another.

his political philosophy was substantially identical with Green's but certainly the temper was different. During a large part of his life Bosanquet was actively engaged in the work of social welfare in London, but the bias of his political philosophy was conservative, with a leaning towards philanthropy, rather than liberal.

Oxford idealism, partly because of its dependence on Hegel and partly because it tried to modernize and extend the ideal of Greek citizenship, introduced into English political thought a confusion of terminology that had been absent from the liberal tradition. This was its use of the term state in a sense that was sometimes like the technical meaning of the term in Hegel and sometimes equivalent either to society or to the political organization of a national community. This confusion was already present in Green but was far more marked in Bosanquet. It occurred the more easily because the word had never had a precise meaning, or any common use, in the vocabulary of English political theory. Its use by the idealists was trebly unfortunate. As applied to society it suggested a degree of unity that no modern community has, for it obscured the fact that what is called society is made up of an indefinitely large number of groupings, sometimes by localities and sometimes by interests, all of which have corporate unity, or a "general will," far more truly than society at large. As applied to the institution of government it suggested a moral quality to which political organization as such has no just claim. And as applied indifferently to society or political institutions it not only confused a community with one of the institutions that communities maintain, but it invested that institution with a superiority over other institutions which is very often not justified. The mere fact that individuals have no moral rights except in communities, upon which Green and Bosanquet insist, proves nothing whatever about the political control that governments ought to exercise over individuals or communities other than political society itself.

THE ACHIEVEMENT AND FAILURE OF LIBERALISM

The practical achievements of liberal political thought can hardly be overestimated, yet looking at its history as a whole one can hardly avoid the conclusion that it has been a diminishing force in modern political society. In its early stage it stood for a powerful reformatory influence which completed the work of criticism carried on in the eighteenth century chiefly by the theory of natural rights. Bentham's jurisprudence was a powerful means for replacing legal ritualism, conventionalism, and formalism with order and efficiency. Economic liberalism was a no less powerful means of doing away with a political regulation of industry that was partly an anachronism and partly the agency of gross exploitation in the interest of a class. This work was

partly negative, though it is unfair to say that early liberalism did nothing but clear away historical detritus. Down to and beyond the middle of the nineteenth century its importance justified the pre-eminence that liberalism enjoyed. But once the work was accomplished liberalism faltered. The effort of John Stuart Mill and Herbert Spencer to restate a liberal political philosophy in the light of the social problems and scientific knowledge of a later day lacked the originality and the grasp needed to strike out a really new path. In the meantime, liberal legislation moved in a direction determined by the pressure of economic and political forces and under the impetus of ideas that were opposite to the prepossessions of liberal theory. Green's restatement of liberal principles gave them the moral driving force of an ethical idealism at once socially minded and serious in its purposes. At the same time, however, the ideal of self-realization was so formal in its nature and so vague in its practical implications that its concrete meaning had to depend largely on circumstances. In consequence later liberalism has tended to disintegrate either in the direction of conservatism or in the direction of socialism, between which it had aspired to steer a middle course. This disintegration undoubtedly involves a risk to the fundamental liberal political values—freedom of thought and investigation, freedom of speech and discussion, and freedom of criticism and protest—without which no rational political theory and no intelligent political policy is permanently possible. The risk has become doubly great with the advent of political theories which reject the obligation to be reasonable.

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CHAPTER XXXII

MARX AND DIALECTICAL MATERIALISM

Though the individualist tradition so strong in modern political philosophy persisted through the earlier history of liberalism, it was already shaken by the reaction against the French Revolution which culminated in the philosophy of Hegel. In Hegel this reaction contained two chief elements, his idealization of the national state and his conception of the necessary historical development of society under the law of the dialectic. The union of these two elements in Hegel was an historical accident; there was no sound reason why the value that he attributed to communities should have accrued to the nation alone, or why dialectical opposition in history should be thought always to take the form of national antagonism. In the later history of political philosophy the two have pulled apart. From the conception of the state as the embodiment of a nation's ideal interests follows its claim to organize and control the whole national life—economic, educational, and cultural—including all the private interests of its citizens. This forms the strongest ethical justification that has been advanced for fascist dictatorship. On the other hand, the dialectic, modified by Karl Marx, became a main principle in the social philosophy of all those branches of socialism that were derived from him. This type of philosophy remained broadly collectivist, as distinguished from individualist, but it regarded the bonds of economic interest and loyalty that unite social classes as a stronger tie than that which unites a nation. Hence it construed history as moving under the stress of an antagonism between classes rather than nations and under the pressure of economic rather than ideal forces. Thus political philosophy has grown along two main lines both starting from Hegel: nationalist idealism issuing in fascism and dialectical materialism issuing in communism.

THE PROLETARIAN REVOLUTION

Marx's social philosophy reflects, and was designed to reflect, a social change of the greatest importance, the rise to consciousness and finally to political power of the industrial working class, which has already been mentioned as having modified the course of liberalism itself. Especially in the historical studies which formed an integral part of his philosophy Marx presented capitalism in what might be

called its human aspect, as an institution that had produced and was continually enlarging a class of men who must live wholly from wages and who therefore are related to their employers only by a cash-nexus. Their power to work is a commodity to be sold in a competitive market where the only obligation of the purchaser is to pay the current price. The rise of such an industrial proletariat, having no power except through the pressure of well-organized masses and obliged to set as its end not political rights but the improvement of its standard of living, Marx regarded as potentially the most revolutionary fact in modern history. Understanding it as an historical fact, he was aware of capitalism as an institution, not the result of timeless economic laws but a phase in the historical growth of modern society. Starting, therefore, from the admitted fact of divergent class-interests, he set himself both to interpret democracy and utilitarian liberalism as ideologies peculiar to the middle class and to create a social philosophy suitable for the use of the rising proletariat in the struggle for power.

The purpose of Marx's social philosophy was therefore twofold, as Hegel's had been: both men combined an explanation of social development with a plan for taking part in it. On the one hand, Marx's philosophy was a theory of history, setting forth "the natural phases of evolution" which proceeds under the internal drive of dialectic. Whereas Hegel had conceived that European history culminates in the rise of the Germanic nations and had looked forward to the advance of Germany to a position of spiritual leadership in European civilization, Marx conceived that history culminates in the rise of the proletariat, as the chief social consequence of a developing capitalism, and looked forward to the advance of that class to a dominant place in modern society. In Hegel's theory of history the driving force was a self-developing spiritual principle that embodied itself successively in historic nations; in Marx's it was a self-developing system of productive forces that embodied itself in basic patterns of economic distribution and social classes. For Hegel the mechanism of history was warfare between nations; for Marx it was a revolutionary struggle between classes. Both men regarded the course of history as logically necessary, a pattern of stages advancing towards a predetermined goal. On the other hand, however, Marx's philosophy like Hegel's was a call to action, a peculiar but under proper circumstances an effective form of moral exhortation. Whereas Hegel appealed to national patriotism, Marx appealed to the fidelity of workers to their own class. In both cases the appeal was collective rather than individual; it was addressed more to loyalty than to self-interest or private rights. It asked men to suppress their capricious self-will and to co-operate in the inevitable march of civilization. In the large this phase of Marx's philosophy was meant to provide an analysis of the position of the working class in preparing and consummating a social revolution.

This union in Marx of a programme of revolutionary action with a philosophical theory of the necessary course of social development has been a standing puzzle to commentators. Unsympathetic critics have usually divided the two and described, first, Marx the social philosopher and second, Marx the founder of party-socialism. This kind of interpretation always provokes from Marxists the charge of being superficial and 'bourgeois.' It seems certain that Marx himself had no consciousness of playing a double rôle. The necessity that he attributed to history was like Hegel's in that it invited co-operation and participation; a theory of party tactics was its natural supplement. For both Hegel and Marx the secret of this union was believed to lie in the dialectic. The compelling force claimed for communism as an end of social evolution is of this peculiar sort: it is neither merely desirable nor merely probable but necessary, yet its necessity is conditional upon the rise of the party and its efforts. Human calculation and human interests are a factor in producing the necessity, yet the necessity predetermines the calculation and the direction that the interest must take. The fundamental philosophical issue is therefore between Hegel and Marx on the one side and Hume on the other. Is there a 'necessity' that bridges causation and the moral imperative, or was Hume right when he made a rigid distinction between reason and valuation?

Marx's social philosophy fell into two parts, the outcome of two historical influences. The earliest was his study of Hegel during his years as a student in Bonn and Berlin. By this time Hegel's school was divided into an idealist wing, largely concerned with religious apologetics, and a materialist wing led by Ludwig Feuerbach. In later years Marx described Feuerbach as a small figure compared with Hegel but epoch-making after Hegel, because he freed Hegelianism from its bondage to idealist mystifications. After Marx left Germany his contact with French socialism turned his attention towards economics but left him discontented with the grasp both of economic theory and economic history that he found in socialist writers. To these subjects the rest of his life as a scholar was devoted. The earlier and more general outcome of Marx's studies was the theory that social evolution proceeds under the stress of economic forces. The later and more specific result of his study of the classical economics was his theory of surplus value. These two parts of Marx's work correspond roughly to the writings of his earlier years, which were mainly controversial tracts, and the theoretical (as distinguished from the historical) part of his great work on *Capital*, which took economic materialism for granted but nowhere stated it. This division was unfortunate. As the nineteenth century advanced revolutionary movements played a diminishing part even in socialism, and Marx's earlier tracts tended to drop out of consideration. *Capital* in 1867 made the theory of surplus value the distinguishing mark of so-called scientific socialism

and turned the discussion of Marx almost wholly towards the internal consistency of that theory. This was after all a question of minor importance. It was not until nearly the end of the century that economic materialism began to be widely discussed. Yet every one would probably now agree with Lenin, that this is "the central point around which the entire network of ideas, expressed and discussed, turns." It will be assumed, therefore, that the most important part of Marx's social philosophy was the theory that the system of economic production is a foundation on which the institutional and ideological superstructure of society is built. The primary critical question is the dependence of this theory on dialectic. The specifically economic part of Marx's work, the theory of surplus value, will be reserved for briefer discussion.

DIALECTICAL MATERIALISM

The sources for the study of dialectical materialism in Marx and Engels fall into two groups. There is, in the first place, a number of brief works by Marx, polemic writings produced while he was formulating his theory of social revolution or occasional pamphlets analysing the failures of revolutionary efforts in France. In the second place, there are several works by Engels, including a number of important letters, elaborating and explaining Marx's ideas on the subject and objecting to misuses of the theory by younger socialist writers in Germany towards the close of the century. In neither case was there anything that can be called a systematic exposition of it. In the case of Marx it seems pretty clear that he never cared to attempt such an exposition and distrusted efforts to turn dialectical materialism into an explicit philosophy of history. Apparently he was interested in it as a suggestive working hypothesis, first, to aid in formulating the tactics proper for a revolutionary proletarian party and second, as a guide to historical studies and to the criticism of economic and social theory. The reduction of dialectical materialism to a formula and the more or less mechanical application of it to history were contrary to Marx's practice and also to his express injunctions.

Marx first formulated the theory of dialectical materialism in a series of short works published between 1844 and 1848 in which he both developed his own ideas of philosophy and jurisprudence, first formed during his years of study in the universities of Bonn and Berlin, and reformulated French socialism in the light of Hegelian principles.[1] His original purpose was twofold, having to do with German philosophy

[1] *Deutsch-französische Jahrbücher*, 1843; *Die Heilige Familie* (1845); selections from these are translated by H. J. Stenning under the title, *Selected Essays by Karl Marx* (New York, 1926). *La misère de la philosophie* (1847); Eng. trans., *The Poverty of Philosophy*, ed. by C. P. Dutt (New York, 1936). *The Communist Manifesto* (1848). The standard edition of the works of Marx and Engels is *Karl Marx, Friedrich Engels, historisch-kritische Gesamtausgabe, Werke, Schriften, Briefe*, ed. by D. Ryazanoff (Frankfurt, 1927–31).

on the one hand and socialism on the other. An industrially and politically backward country like Germany, Marx believed, could contribute nothing to the advance of European civilization except abstract philosophical analysis. On the other hand, the Hegelian philosophy, properly understood, is revolutionary in its implications, in spite of the reactionary uses to which conservative Hegelians put it. The only way in which its real significance can be brought to light is to make it the intellectual organ of a revolutionary party. The revolutionary quality of Hegelianism is most apparent in its criticism of religion. The dialectic shows the relativism of all supposed absolute truths and transcendent religious values and reduces them to the level of social products inherent in the life of a community in its given temporal and historical context. More specifically this criticism destroys the double life that Christianity has imputed to man as spirit and body, in which the imaginary solace of heaven is offered as an offset to the real misery of life. A radical use of critical Hegelianism shows the true nature of religion as a merely fantastic satisfaction of human needs and hence as "the opium of the people." To abandon this illusion is the first step towards an effective demand for the means of real happiness here and now. This indicates the practical importance that Marx attached to a materialist interpretation of Hegel. It meant secularism, a release from the use of the system to defend the symbolic meaning of religious dogma and ecclesiastical authority, and more generally an attack on religion as one of the great conservative or reactionary forces in society.

In the *Holy Family* Marx made somewhat clearer the sense in which his philosophy was materialist. He distinguished sharply between his own dialectical materialism and the French materialism of the eighteenth century. The latter he identified with mechanical explanation, which he regarded as the proper method of natural sciences such as physics and chemistry, where the subject-matter presents no problems of historical development. Like Hegel he considered dialectic to be a more powerful method precisely because it is able to deal with a continuous, evolving subject-matter and to reveal the necessity inherent in it. Neither then nor later had Marx any belief that a method of explanation borrowed from the physical sciences had any value for social studies. He had a low opinion of the excursions of natural scientists into history and economics which he expressed in no uncertain terms in *Capital*. It is true that he compared his own work to that of Darwin; it presented an evolutionary morphology of the modes of production and exchange, which in social studies is analogous to evolutionary anatomy in biology. It is quite certain, however, that Marx regarded Darwin as merely furnishing an external support to the theory of the class-struggle. What impressed him on a first reading of the *Origin of Species* was "the crude English method of develop-

ment,"[1] the only possible reaction of an Hegelian to Darwin's strictly empirical method. The use of the word materialism implied no similarity of methods between the natural and the social sciences. With a book like Holbach's *System of Nature* Marx's philosophy had nothing in common except a detestation of religion.

The rejection of religion, however, formed only one phase of what Marx understood the Hegelian criticism to imply. It showed also the superficial nature of political revolutions; in substance Hegel's criticism of the rights of man will stand. Revolutions have transferred power from one social class to another but they have always left the fundamental fact of an exploited class. Hence the civil and political liberties sought by a political revolution are no real liberation. Though religious liberty be gained, the religion of private caprice is left standing; though the freedom to control property be granted, private property itself remains; though civil equality be assured, society itself is still stratified in classes. Like Christianity, political revolution leaves man still with a double life, real servitude and imaginary freedom. No solution can be final which does not completely unite the man and the citizen, the private and the social capacities. Marx evidently had in mind Hegel's remarks on real as distinguished from negative liberty. By bringing this ideal into relation with revolution, however, Marx gave it a meaning which it never had for Hegel and which it had still less in its Greek original. For Marx it meant a classless society in which social no less than political discriminations have been done away. This is the ultimate goal of a social revolution, which Marx regarded as the logical successor to the political revolution; it is the logical next step in which the whole revolutionary process must complete itself.

ECONOMIC DETERMINISM

This distinction between the two types of revolution arose, as Marx believed, from a deep-lying historical cause. This was the fact that political revolution proceeded from purposes suitable to the middle class which was mainly responsible for having brought it about. A social revolution, aiming to equalize not civil liberties but economic differences and to bring into being a society in which there are no social classes, can be the objective only of the proletariat. The French Revolution Marx understood as a bourgeois revolution; it was the effort of the middle class to destroy the political superiority of the nobility and the clergy, to win political rights for the middle class, and to sweep away the remnants of feudal law and government which hampered the rising system of capitalist production. From the point of view of a working class, however, civil liberties and the forms of

[1] Letter to Lasalle, January 16, 1861; *Selected Correspondence*, p. 125. See *Capital*, Vol. I, Eng. trans. by E. and C. Paul, p. 392, n. 2.

democratic government are not the eternal verities that the system of natural law represented them to be. They are not negligible, because they are a prior condition to increasing the power of the proletariat, but they are not the rights of man. They are the rights of the middle class. Accordingly, the whole system of natural law falls into place in an evolutionary theory of society as the ideology of a specific stage of development. Moreover, the mechanism of political change becomes apparent: it is the incompatible interests of social classes and the struggle between them to dominate society in their own interest. The effect of the French Revolution has been to relieve the middle class from exploitation by the older classes, but it has left it an exploiting class. The wage-earning proletariat is an inevitable product of capitalism which rises *pari passu* with the bourgeoisie. The success of bourgeois revolution opens the way for the more thoroughgoing proletarian revolution which must in the end sweep away the new exploiting class, as the middle-class revolution has swept away the old exploiting classes.

Marx made it quite clear that he did not regard himself as having originated the theory of class-antagonism. He merely took over and extended a theory already in existence to explain the French Revolution. In a letter to Engels he referred to Augustin Thierry as "the father of the class-struggle in French historical writing."[1] In addition he relied upon the theory of distribution in Ricardo. What he objected to in the middle-class historians was the presumption that the class-struggle ended with the rise to power of the bourgeoisie, just as he objected to the economists' presumption that the laws of a capitalist economy were eternal and immutable. In the revolutions of his own day Marx believed that he saw a new type of revolutionary uprising which had as its spearpoint not a middle class intent upon political rights but a working class rising to consciousness of its own degradation and confusedly determined to alter not the political superstructure but the underlying economic causes of social inequality.

> What I did that was new was to prove: (1) that the *existence of classes* is only bound up with *particular, historic phases in the development of production;* (2) that the class struggle necessarily leads to the *dictatorship of the proletariat;* (3) that this dictatorship itself only constitutes the transition to the *abolition of all classes* and to a *classless society.*[2]

The final step in Marx's argument, therefore, is that the structure of classes that exists in the society of a given period is itself a product of history, changing with the forces of economic production that the society is able to utilize. Here is the ultimate cause to which the whole social, legal, and political framework of society is to be traced

[1] July 27, 1854; *Selected Correspondence*, p. 71.
[2] Letter to Weydemeyer, March 5, 1852; *Selected Correspondence*, p. 57. The italics are Marx's.

back, while changes in this framework are to be correlated with changes in the methods of economic production. Writing in 1859, in one of the few autobiographical passages that occur in his works, Marx explained how a brief editorial experience with economic questions, for which he felt himself inadequately prepared, drove him back to a reconsideration of his Hegelian studies in philosophy and jurisprudence.

> I was led by my studies to the conclusion that legal relations as well as forms of state could neither be understood by themselves, nor explained by the so-called general progress of the human mind, but that they are rooted in the material conditions of life, which are summed up by Hegel . . . under the name "civil society"; the anatomy of that civil society is to be sought in political economy.[1]

In this Marx saw, quite rightly, an enormous gain. In place of the logical abstractions within which the Hegelian dialectic moved, it put the tangible and historically ascertainable conditions of the industrial and commercial system. At the same time it is clear that he meant to retain the main outline of Hegelian methodology. The forces of production undergo a necessary dialectical development; they form a material analogue to Hegel's Absolute Spirit. The actual facts of social, legal, and political history are the manifestations or appearances of this underlying reality. The facts are a "phenomenal form," a surface-play of transient and in some measure accidental circumstance drawing their necessity from the hidden force out of which they rise. In Hegel, Marx said later, "dialectic stands on its head." He merely "turned it right way up" by removing the "mystifications" of idealism.

In the *Poverty of Philosophy* Marx applied the new point of view to a criticism of economic science, both the classical economy and the economics of contemporary socialism. For the former he had a high admiration, being convinced that a revolutionary philosophy must make use of the most exact results of economic analysis. His objections to it were aimed at the incredible *naïveté* of the economists in respect to historical knowledge. As Engels said later, they speak as if Richard the Lion-Hearted, had he only known a little economics, might have saved six centuries of bungling by setting up free trade, in place of wasting his time on the crusades. As theologians divide religions into true and false, their own and all others, so the economists treat all economic systems as if they were blundering approximations to capitalism, while the latter they treat as if its relations and categories were natural and eternal. Against this Marx set up the view that economics is an historical science. Its laws are applicable only to the stage of economic production to which they belong; its categories, such as

[1] *Critique of Political Economy*, Preface; Eng. trans. by N. I. Stone (1904), p. 11.

profits, wages, and rent, are "theoretical expressions, the abstractions, of the social relations of production."

> These ideas, these categories, are as little eternal as the relations they express. They are *historical and transitory products.*[1]

Thus economics became for Marx a combination of history and analysis: analysis of the relations prevailing in any given system of production, supplemented by history of the rise and development of that system. Towards humanitarian, utopian, and reformist criticisms of the classical economy Marx was less tolerant. Such projects, in his opinion, offer palliatives, sentimentality, and idealist schemes without either history or analysis. In substance they all reduce to some plan for separating the good from the bad in capitalism, usually to some impossible way of uniting capitalist production with socialist distribution. What they fail to see is that a system of production, by an inexorable logic of its own, determines the distribution of the social product and consequently the place of every class in the social economy. In fact, Marx was less than just to the utopians. His own ideal of a classless society belonged to the same order of ideas, though he regarded that as guaranteed by the necessity of the dialectic.

IDEOLOGY AND THE CLASS-STRUGGLE

It was characteristic of Marx that he was interested not in perfecting dialectical materialism as a logical system but in applying it to concrete situations, especially with the purpose of providing a programme of action for a consciously revolutionary proletariat. Thus in the *Communist Manifesto* (1848) he and Engels used the class-struggle as the key to understanding "all hitherto existing society." A little later he undertook in two pamphlets to assess the failure of the revolutionary struggle in France by applying his new method to a problem in contemporary history.[2] These pamphlets give an incisive analysis of the economic affiliations of the various parties in the revolution and a clear insight into the inchoate state of the proletarian parties. At the same time they fail to justify the extravagant claims made by Marxists for the dialectic as a means of prognosis. Marx's prophecy, that the recurrence of a business depression like that of 1847 would reawaken the revolution, was mistaken and, as Engels candidly admitted later, he quite failed to appreciate the possibilities of development within the capitalist system.

These pamphlets serve to make clearer also Marx's conception of the

[1] *The Poverty of Philosophy*, Eng. trans. edited by C. P. Dutt, p. 93.

[2] *Die Klassenkämpfe in Frankreich*, 1848 *bis* 1850, articles in the *Neue Rheinische Zeitung*, 1850, published by Engels (1895); Eng. trans. edited by C. P. Dutt, *The Class Struggles in France*, 1848 50. *Der achtzehnte Brumaire des Louis Bonaparte* (1852). Eng. trans. by Daniel De Leon, *The Eighteenth Brumaire of Louis Bonaparte* (1898).

relation of social classes both to the course of history and also to their own mentality. The class had for Marx a collective unity as the nation had for Hegel. It acts in history as a unit and it produces its characteristic ideas and beliefs as a unit, acting under the compulsion of its place in the economic system. The individual hardly counts, except through his membership in the class, because his ideas are in the main a reflection of the ideas generated by the class.

> Upon the several forms of property, upon the social conditions of existence, a whole superstructure is reared of various and peculiarly shaped feelings, illusions, habits of thought, and conceptions of life. The whole class produces and shapes these out of its material foundation and out of the corresponding social conditions. The individual unit to whom they flow through tradition and education may fancy that they constitute the true reasons for and premises of his conduct.[1]

This passage suggests the peculiar sense in which the word ideology is used by Marx. Ideas reflect and more or less misrepresent an underlying economic reality; they are "mystifications" of it, at least in so far as they are not understood to be so. As ideal motives or reasons for conduct they are appearances which seem to be valid and compelling but the compulsive force is really the interest of the class in its own special relations of production. This conception of ideology was at once one of Marx's most suggestive ideas and also one of the vaguest and most subject to abuse in its application. For it is not accompanied by any effective psychological theory of the way in which ideas are bred of underlying economic causes. The theory was an adaptation to social classes of Hegel's rather mystical notions about the spirit of a nation which expresses itself in a national culture.

The pamphlets on French affairs also indicated the main lines of Marx's theory of the class-structure of modern industrial societies. The typical feature of this theory is that the struggle is taken to be essentially between the two classes, capitalists and proletarians. Marx recognized the existence of other classes, such as the peasantry and the petty bourgeoisie, but the dialectic and the peculiar theory of social development based on it required him to picture the class-struggle as drawing to an issue between two "contradictory" forces. Probably this simplification of the facts commended itself to him also as useful propaganda. He believed, quite mistakenly, that the lower middle class was destined to be drawn into the proletariat, but even where this has not happened, as with the peasantry in France, he believed that either the capitalist or the proletarian class must dominate. To do anything effective the peasantry or the lower middle class must ally itself with one or the other. The tactical value of this idea in France in 1850, or in Russia in 1917, is obvious, but it by no means follows that the alliance with the proletariat must take place. Contrary to Marx's

[1] *The Eighteenth Brumaire*, Eng. trans. by De Leon, p. 24.

expectations, the increase in salaried employees, professional people, middlemen, small stockholders and others who belong in general to the petty bourgeoisie is a marked characteristic of all industrial societies. Fascism seems to show that such people resist the control of the proletariat with a savagery that Marx could hardly have imagined. Undoubtedly he greatly exaggerated the simplicity of the class-struggle and greatly overestimated the certainty of its working out to the advantage of the proletariat. He really relied on the apparent likelihood, when he wrote, of continuous progress in a generally democratic direction.

MARX'S SUMMARY

The fragmentary manner in which Marx worked out the theory of dialectical materialism justifies the quotation at some length of the only summary he ever made of his conclusions, a passage which could not be improved for clarity and force:

> In the social production which men carry on they enter into definite relations that are indispensable and independent of their will; these relations of production correspond to a definite stage of development of their material powers of production. The sum total of these relations of production constitutes the economic structure of society—the real foundation, on which rise legal and political superstructures and to which correspond definite forms of social consciousness. The mode of production in material life determines the general character of the social, political, and spiritual processes of life. It is not the consciousness of men that determines their existence, but, on the contrary, their social existence determines their consciousness. At a certain stage of their development, the material forces of production in society come in conflict with the existing relations of production, or—what is but a legal expression for the same thing—with the property relations within which they had been at work before. From forms of development of the forces of production these relations turn into their fetters. Then comes the period of social revolution. With the change of the economic foundation the entire immense superstructure is more or less rapidly transformed. In considering such transformations the distinction should always be made between the material transformation of the economic conditions of production which can be determined with the precision of natural science, and the legal, political, religious, aesthetic, or philosophic —in short ideological forms in which men become conscious of this conflict and fight it out. . . . No social order ever disappears before all the productive forces, for which there is room in it, have been developed; and new higher relations of production never appear before the conditions of their existence have matured in the womb of the old society. Therefore, mankind always takes up only such problems as it can solve; since, looking at the matter more closely, we will always find that the problem itself arises only when the material conditions necessary for its solution already exist or are at least in the process of formation.[1]

This theory of the development of civilization, then, contemplates a succession of stages each dominated by a particular system for the

[1] *Critique of Political Economy*, Preface; Eng. trans. by N. I. Stone, pp. 11 ff.

production and exchange of goods and within which this system gives rise to certain human relations issuing in turn in an appropriate ideology, including law and politics together with such more ideal products as morals, religion, art, and philosophy. In theory each stage forms a co-ordinated whole in which the ideal factors are suitable to the system of production. Actually, in the descriptive and historical chapters of *Capital*, Marx used the general idea much more loosely. At any given time, he assumed, the process of development has run unequally in different countries, and in different industries in the same country. There are always remnants of the older economy and beginnings of the newer. The theory combines both continuous change or evolution and discontinuous, revolutionary changes. A new method of production finds itself in a hostile ideological environment which must be dissolved before it can grow. The ideology appropriate to the old system becomes more and more burdensome until the breaking-point is reached; the slow formation of a new social class ends in a climax of antagonism. Force is therefore itself an economic power. Revolution plays somewhat the same rôle in Marx's theory as national wars in Hegel's. Finally, the process is dialectical. The productive forces inherent in any society develop completely before a change takes place. It is impossible to imagine what empirical proof could be given for this assumption. Still less is it possible to see, on empirical ground, why civilization should never meet an insoluble problem. Marx merely assumed that civilization as a whole is always progressive.

ENGELS ON DIALECTIC

The theory of dialectical materialism was completed by Marx about 1846. From that time forward it was presumed in all that he wrote but even in *Capital* it was nowhere stated; the treatment of socialism in that work turned discussion towards intrinsically less important economic theories such as surplus value. It was not until later in the nineteenth century that the economic explanation of history began to assume the importance it deserved and to extend its influence beyond the circle of professed Marxists. In the meantime the public had been prepared to take an interest in it by the spread of biological evolution, though inherently there was little logical relation between the two. Anthropologists like Lewis Morgan, apparently without depending upon Marx, had stressed the importance of technology in primitive cultures. The development of historical scholarship among socialists, especially in Germany, caused the economic interpretation of history to be applied and re-examined. By this time Marx was already in failing health (he died in 1884), and the further exposition of his theory fell to his

friend and collaborator, Friedrich Engels.[1] Unfortunately Engels, though he was a man of strong common sense and transparent candour, was philosophically not very acute and in no sense original. He elaborated Marx's fragmentary texts but he left the underlying obscurities in the theory almost exactly where they were.

In their understanding of the general nature of dialectic and the kind of necessity which it permits to be discovered in history, it is clear that both Marx and Engels relied on Hegel. They objected to particular uses of it by Hegel, which Engels said were nearly always arbitrary, and they rejected, of course, the idealist interpretation of it as a self-development of thought. It is, on the contrary, a self-development of nature itself reflected in thought, but this implied little serious change of Hegel, who also believed that the dialectic revealed a development implicit in reality. For Engels as for Hegel the value of dialectic lay in the fact that it permitted the discovery of a necessary evolution in history:

> From this standpoint [of Hegel's philosophy] the history of mankind no longer appeared as a confused whirl of senseless deeds of violence, all equally condemnable before the judgment seat of the now matured philosophic reason . . . but as the process of development of humanity itself.[2]

In his *Feuerbach* Engels attributed rationality to nature in exactly the Hegelian sense. That is, the real or rational cannot be equated with existence because much of what exists is irrational and therefore unreal; in 1789 the French monarchy existed but was not real. In other words, for Engels as for Hegel real means not existent but important. The process of history is inherently selective, so that the important brings itself into existence because it is important. The whole conception was fundamentally vitalistic or mystical, just as it was in Hegel.[3] The necessity of history, despite their so-called materialism, was for Marx and Engels as for Hegel really a moral necessity, the "progressive development," as Engels calls it, of civilization by the expansion of its inner forces. The supposed necessity reflected their faith in the inevitable success of the proletarian revolution, as for Hegel it reflected his faith in the mission of Germany.

[1] *Herr Eugen Dührings Umwälzung der Wissenschaft* (1878) (usually referred to as "Anti-Dühring"; Marx co-operated in writing this work); Eng. trans. by E. Burns, *Herr Eugen Dühring's Revolution in Science* London, (1935). *Feuerbach* (1888); Eng. trans. by Austin Lewis (Chicago, 1903). Letters to Conrad Schmidt, August 5 and October 27, 1890, July 1 and November 1, 1891, *Selected Correspondence*, pp. 472, 477, 487, 494; to J. Bloch, September 21, 1890, *ibid.*, p. 475; to Franz Mehring, July 14, 1893, *ibid.*, p. 510.

[2] *Anti-Dühring*, Eng. trans. by E. Burns, p. 30.

[3] Cf. Sidney Hook, *From Hegel to Marx* (New York, 1936), ch. i. Professor Hook accepts this conclusion for Engels but denies it for Marx. The hypothesis that the two men differed seems improbable but in any case the version of dialectic which Professor Hook attributes to Marx seems to me no more valid than Engels's.

According to Engels's account of the dialectic in his *Feuerbach* the important difference between Marx and Hegel lay in the fact that Marx adopted a materialist version of dialectic; ideas are not forces, as Hegel supposed, but "pictures of real things," "the conscious reflex of the dialectic evolution of the real world." A similar theory of "pictures" is developed by Lenin, following Engels, in his *Materialism and Empirio-Criticism*. The word picture in this connection is a meaningless figure of speech, but in any case the whole argument missed the point. Engels assumed that all philosophies must be either materialist or idealist, and between these two his choice was of course determined, as it had been for Marx, by the fact that materialism gets rid of religion and the power of ideologies. In order to make this antithesis, however, he swept away almost with a sentence the whole anti-metaphysical tradition from Hume to Kant. Apparently he really believed that the positivist argument is refuted by pointing to the fact that empirical verification occurs! Yet Hume was the real opponent that Engels needed to refute. For the question is whether dialectic, either idealist or materialist, can avoid Hume's proof that all necessity is merely conditional, and all value merely a relation to human propensities. The great value of Hegel's philosophy, Engels says, is that it destroyed truth as a "collection of ready-made dogmatic statements."

> Truth lay now [after Hegel] in the process of knowledge itself, in the long historical development of learning, which climbs from lower to ever higher heights of knowledge, without ever reaching the point of so-called absolute truth.[1]

Apart from figures of speech about "higher heights," this amounts to out-and-out historical relativism, and if this is what Hegel did, is is just as destructive of the Marxian necessity that history shall lead to the classless society as it is for other ready-made dogmatic statements. The mystery that dialectic is supposed to solve is how knowledge can be relative and absolute at the same time.

Both Marx and Engels occasionally played with the idea that dialectic is merely a working hypothesis which implies no substantive result whatever. Thus Engels said that it proves nothing but is merely a way of advancing to new spheres of research, and that it does away with the need for a metaphysics of mind or a philosophy of history. Marx was even more explicit. In a letter which he wrote in 1877 to a Russian correspondent he said that the account of primitive accumulation in *Capital* does not pretend to do more than trace the path by which capitalism emerged from a feudal economy in western Europe, and he protests against a critic who, in applying his account to Russia, had metamorphosed an historical sketch into "an historico-philosophic theory of the *marche générale* imposed by fate upon every people."

[1] *Feuerbach*, Eng. trans. by Austin Lewis, p. 41.

> By studying each of these forms of evolution separately and then comparing them one can easily find the clue to this phenomenon, but one will never arrive there by the universal passport of a general historico-philosophical theory, the supreme virtue of which consists in being super-historical.[1]

In the same strain Engels in his letters criticized the younger German socialists who, he says, used historical materialism as an excuse for not studying history. Yet it is certain that Marx did not regard the history of capitalism as purely empirical history. Had he done so he would hardly have spoken in the Preface to *Capital* of "tendencies which work out with an iron necessity towards an inevitable goal," or of "the natural phases of evolution," or said that a country more highly industrialized than others "simply presents those others with a picture of their own future." Dialectic is alleged to be a device that can make history at once empirical and necessary and its value depends on whether this combination is possible. The conclusion can hardly be avoided that for Marx as for Hegel the necessity was moral and not logical—an incident of turning history into the kind of moral appeal that is implicit in an 'inevitable' goal of human endeavour.

ENGELS ON ECONOMIC DETERMINISM

Apart from the philosophical principles entering into the dialectic, Engels's elaboration of the subject had to do mainly with the use of economic interpretation in history. In the letters already referred to, written between 1890 and 1894, he discussed the extent to which such interpretation is possible or useful, his main purpose being to correct what he thought to be the exaggerated claims made for it by younger members of the party. He acknowledged that he and Marx, in putting forward a new idea, had overstated the extent to which economic causes could be found for political and legal institutions. He asserted that it would be pedantic to look for economic causes for all history, instancing the High German consonant-shift as one for which no economic origin could probably be given. The example is a little strange and one wonders whether he realized that he was taking the history of language, with all its implications for differences of national culture, out of the region of economic explanation. He suggested that in the case of religion and mythology economic forces may act negatively rather than positively. He admitted that, within a general framework of economic forces, political or even dynastic relationships may exert a large historical influence, as in the rise of Prussia from Brandenburg rather than from any other small German state. And he acknowledged that political power can close some paths of economic development and open others, though it cannot alter its main course. It had never been Marx's belief, he said, that economic forces had been the sole causes

[1] *Selected Correspondence*, pp. 354 f.

of historical change, but only that such forces are 'ultimate' or 'fundamental.' The economic factor is "the strongest, most elemental, and most decisive." Finally, he now argued that it was the special virtue of dialectic to take into account the interaction of different factors all present together in an historical situation.

With all these concessions it is hard to see what there is about the economic explanation of history that the most bourgeois historian need deny or that calls for dialectic to explain it. What Engels says in substance is that Marx brought into prominence a neglected factor in social studies, namely, the interdependence of political and legal institutions with the prevalent mode of producing and exchanging goods. This is certainly true, and the importance of economic factors in history has steadily been rated higher as time went on. Probably it would now be generally granted that this was the most fruitful idea brought into social studies in the nineteenth century. It is difficult to see, however, what Engels thought he was saving for dialectic when he said that the economic factor is the "most elemental and most decisive." If, as he admitted, law and politics can open some doors of economic development and close others, they must be 'decisive' as far as they go. The weight to be attached to any factor in the situation would have to be estimated as accurately as it could be from the available data, and on empirical grounds there seems to be no definite meaning in calling the strongest factor 'elemental.' The fact of course is that the dialectic was not in its essence empirical; it pictured the process of history as the unfolding of an inner reality that spreads out or broadens down from an actuating force at the centre to more and more remote details or appearances. The productive forces of society, the human relations involved, the structure of classes and their antagonisms, and the ideas of art, religion, and morals bred within each class arrange themselves like a series of Neo-Platonic emanations. This mythological phase of the dialectic did not, in fact, much hamper Marx in his actual historical writing because his grasp of facts was too strong. Its possibilities for mischief are suggested when Engels says that historical personalities are mere accidents; if Napoleon had never existed, the dialectical process would have demanded and found a substitute.

Engels expanded somewhat in his letters the brief accounts which Marx had given of ideology and its relation to the economic system. The striking part of Engels's discussion is that, without making the division explicit, he in effect divided ideology into two parts which he treated in entirely different ways. One part of the whole ideal superstructure raised by a society is its science and technology, the other is its law, morals, art, philosophy, and religion. Obviously the first of these is a factor of first-rate importance in shaping the ways in which goods are produced, since technology depends largely upon scientific

knowledge. In fact, technology was emphasized so strongly in current explanations of the productive apparatus that Engels had to urge that sources of raw materials and geographical factors in trade are important parts of the material basis of an economy. However, science and the effects of scientific knowledge on technology play admittedly an important part in determining the form which industry has in any given society. Apparently it never occurred to Engels that anyone could try to give an economic derivation of the concept of scientific truth itself. So far as science is concerned he argued merely that the problems which scientists investigate are largely set by industry and their discoveries are largely important because they react on technology. The truth of a scientific theory apparently depended in his mind upon the fact that it 'pictured' things as they are, which really had nothing to do with the technological interest that may have started the investigation. On Marxian principles, however, there appears to be no reason why truth should be exempted from an economic explanation, since the recognition of truth is a psychological process like any other.

The other parts of the ideological superstructure Engels treated very differently. The validity which men claim for law, morals, politics, art, religion, and philosophy is a 'false consciousness' or a deceptive reflection of the interests which the system of production assigns to the various classes engaged in it. Here the thinker is not clearly aware of the motives that actuate him, but imagines that his ideas are true merely in and for themselves. To this category Engels attributed especially abstractions like justice, liberty, and supposed aesthetic, moral, and religious verities when these are not considered as belonging in some specific social context. These are what have more recently been named 'rationalizations'—specious defences of wishful thinking or the covert idealizing of class-interests. At the same time Engels certainly did not regard all ideologies as equally false. The ideology of the proletariat is superior to that of the bourgeoisie presumably for two reasons. In the first place, the philosophy of Marx makes it clear to the proletarian that his ideas of morality, art, and philosophy do depend upon his class and its position in the class-struggle. In the second place, the proletariat is the class which the present historical epoch is bringing to a position of dominance, so that its ideology is to be the prevailing one in the immediate future.

The relationship between ideology and the economic conditions that produce it is, however, far from clear, and the failure to complete the theory at this point was one of the major omissions of the system. The stress on dialectical development tended to obscure the fact that economic explanation presupposes the psychological causation by which economic conditions produce their consequences in the ideological superstructure. Apparently Marx and Engels assumed that a social class will normally act in its own interest and produce an ideology

favourable to its rise or continuance in power. There is clearly no reason why this should be so. They were perhaps influenced by the prejudice that, though an individual may be foolish, the group is wise, and by the rationalizing anthropology in which this prejudice issued. Or perhaps they took over from the economists a belief in the power of matter-of-fact motives and attributed to classes a kind of self-interest like that which classical economics attributed to individuals. The effect is to narrow the scope of economic explanation itself. Except on the supposition of some kind of vitalistic theory of evolution, towards which of course dialectic inclined, the existence of economic stress need not imply that the conduct which it induces will be of a sort to relieve the stress. Nor is there any reason to presume that a class or a nation will follow the path of self-interest more than an individual; even if its ideology resulted from its economic condition, that ideology might, so to speak, be suicidal. The economic interpretation really required a thoroughgoing examination of the psychological consequences of economic forces, though there was no reason to assume in advance that all psychological explanation has to start from economic forces. The psychology of Freud, for example, provides a whole arsenal of motives that are in no specific sense economic but which are believed to give rise to rationalizations much like the 'false consciousness' that Engels attributed to ideology.

The importance of Marx's economic interpretation of history can hardly be exaggerated. It brought to light the enormous weight of economic forces, such as technology, transportation, the supply of raw materials, the distribution of wealth, finance, and the formation of social classes, in past and present politics, in law, and in the formation of moral and social ideals. Whether he exaggerated the importance of economic factors is of little moment, for their importance is certainly great. His emphasis upon them closes once for all the gap between politics and economics left by the earlier liberal utilitarianism. It is probably not an exaggeration to say that, by his development of this suggestive hypothesis, Marx was the most important social philosopher in the whole of the nineteenth century. It by no means follows, however, that dialectic was the unique logical instrument that he imagined it to be. Dialectic had a purely subjective value for Marx as a way of getting started, as the medium through which the Hegelian ideas of the interdependence of social institutions and the importance of their historical genesis came to him. In so far as economic explanation was a working hypothesis to be empirically verified, its use involved no methods other than those that historians had always used. The conception of an unconditional law of evolution and of a predetermined pattern of stages through which social development runs was a favourite idea in the nineteenth century which continually corrupted evidence and which now appears, like the idea of progress, to have been less

the fruit of science than of a mistaken optimism. The notion that society advances with iron necessity towards an inevitable goal belongs to the realm of religion or fate rather than to that of science or history. If it were true, it could not be empirically proved. Much of what Marx said about dialectic clearly took it out of the realm of proof. His actual practice both as an historian and as an observer of contemporary events was usually better than his theory, and when he went wrong it was frequently because the dialectic led him into false simplifications of highly complex situations.

CAPITALISM AS AN INSTITUTION

Marx regarded the theories of historical materialism and the class-struggle as generally applicable to all societies and all periods, unless perhaps to a period of primitive communism, which Engels at least thought had existed before written history begins. They need to be supplemented, therefore, by something which applies specifically to the present state of European society, to the economic origin of existing classes, and the nature of the class-antagonisms which make the driving power of contemporary history. For this purpose Marx extended his thought along two main lines which formed the subject of his work on *Capital*. The theory of the class-struggle, as Marx himself said, was originally taken over from the historians who were already interpreting the French Revolution as a contest between the bourgeoisie and the older landowning gentry. Accordingly Marx enlarged this historical study, to give a more complete account of the rise of the middle class. This involved a careful search for the origin and development of the capitalist organization of industry and its accompaniment, the formation of an industrial wage-earning class, which Marx regarded as the major revolution in modern European society. In the second place, he undertook to back history with a precise economic analysis of capitalism, upon lines already set by classical economics, to show at once the mechanism by which capitalism produces the two chief classes and the grounds for their inevitable and growing antagonism. This part of Marx's work issued in the theory of surplus value.

The historical chapters of *Capital*, especially those which deal with the history of capitalism prior to the eighteenth century and with the formation of a class dependent solely upon its wages, are the finest of all Marx's writings. Mr G. D. H. Cole has recently expressed the opinion that they are even yet the best account of the subject, despite the attention given to economic history by later writers. Marx opened up the main avenues of approach to the historical study of capitalism, especially as the new industrial system affected social history: the formation of a proletariat by the divorce of the peasantry from common rights in the land, the destruction of household industry by the

growth of capitalist organization, the steady increase in the size and power of the units of such organization, the acceleration of these processes by the expropriation of the church, and the colonial exploitation of America and the Indies. The distinctive feature of Marx's treatment is his stress upon the changing of human and social relations that follow industrial and commercial changes, and particularly upon the cramping, even the distorting, of the workers' lives by the steady advance of the division of labour. In all cases the working class is subjected to a regimentation at odds with the profession of liberty and equality in the bourgeois democratic philosophy.

> In manufacture the enrichment of the collective worker, and therefore of capital, in the matter of social productivity, is dependent upon the impoverishment of the workers in the matter of their individual powers of production.[1]

To the same effect are the descriptive chapters of *Capital*, dealing with the contemporary history of capitalism and its effects upon wage-earners as a class. Here Marx opened up all the main subjects of controversy between the two classes and reinforced them with elaborate references to public reports. In this he was probably helped by Engels, who had published his book on the *Condition of the Working-Class in England* in 1844. The periodic recurrence of business-crises, the existence even in prosperous times of chronic technological unemployment, the destruction of the skilled crafts by new machines, and the displacing of skilled by unskilled labour, the sweating of non-industrialized trades, the growth of an unemployable slum-proletariat —all these enforce Marx's belief that capitalism is in essence parasitic and devours the human substance of society. The distinctive characteristic of capitalism seemed to him to be its paradoxical union of organization and anarchy: the technological organization of production united to an anarchy of exchange, an elaborate social co-ordination of the units of production united with failure to adapt industrial means to human ends. Though it is given only an occasional and passing statement, Marx had always in mind the contrast between capitalism and a socialized industry, planned to produce and distribute goods when and where a legitimate need exists for them. Unfortunately the dialectic caused him to conceal this ideal under a spurious historical necessity instead of stating it for what it really was, namely, a moral aspiration.

SURPLUS VALUE

Because of his dislike for utopianism and also because he inherited from Hegel a preference for casting moral ideals in the guise of the inevitable, Marx was concerned to show that the capitalist system must, with dialectical necessity, produce as a result of its own contradictions

[1] *Capital*, Vol. I, Eng. trans. by E. and C. Paul, p. 382.

the opposed system of socialism. This part of his argument took roughly the following form. The appropriation of surplus value by the capitalist class supplies the underlying economic ground for the observed tendency of capitalism towards large-scale production and monopoly. Marx inferred that this must result in the concentration of wealth in fewer hands and the sharper division of society into capitalists and proletarians. In the end this must produce a revolutionary situation in which the expropriators will be expropriated and production will be socialized. Apparently he believed that the general tendency would be both towards putting a larger proportion of the population into the wage-earning class and also towards greater poverty in that class. Different parts of the analysis proved to be of very unequal value, which seems to indicate that the supposed dialectical necessity in the process had little to do with Marx's forecasting. The concentration of industry into larger units took place, but this proved to be not exactly the same thing as the concentration of ownership. Capitalism assumed international proportions, but working-class mentality did not break down national barriers to correspond with a class-struggle on an international scale. The number of salaried employees increased, but this was not quite the same as the growth of the proletariat. The economic condition of workers in the long run apparently improved over what it had been earlier in the century, and the lower middle class showed no inclination to fall into the arms of the proletariat. At the very least, the development proved much longer and more complicated than Marx imagined. The basis of the whole argument was Marx's theory of value, and with reference to this the situation was unsatisfactory. None but professed Marxists accepted it, and they held to it in spite of criticism. Each side failed to convince the other, and since intelligence and good faith were probably equal on both sides, one suspects that Mr A. D. Lindsay is right in thinking that the two parties were arguing at cross purposes.

The theory of surplus value was professedly an extension of the labour-theory of value already stated by Ricardo and the classical economists. Commodities exchanged in the market have the single common property of being the products of labour. But labour as here used is 'homogeneous'—that is, it is bare, abstract labour of no particular quality, measured solely by its duration, so that skilled labour may be counted as some multiple of it. The inclusion of labour in a commodity gives it value. But the labour must also be "socially necessary," and this means that it must be performed with the technical means normal to the prevailing conditions of production. It means also that the goods must be produced in such quantities that they can enter into exchange, for if the market refuses to take all the goods produced, too much labour-time has been put into them, exactly as if they had

[1] *Karl Marx's Capital* (1925), ch. iii–iv.

been made by an antiquated technology. In so far as the power to labour is itself a commodity, its value is fixed in the same way as that of any other commodity. That is to say, its value in exchange is fixed by the labour needed to produce and maintain it; or in other words it amounts to the commodities needed to support the labourers. But labour is unique among commodities because in being used up it creates more value. The two quantities of value, however, are not equal, and the employer sees to it, by the regimentation and organization of his workers, that the amount produced when their labour-power is consumed is greater than the amount paid for it as a commodity. The labour-power used produces value beyond the replacement of the labour-power consumed. From this surplus value arise all profits, interest, and rent, since the mere exchange of labour or any other commodity can add nothing to its value.

The first puzzle about this argument is to find out exactly what it was intended to explain. Marx's critics among later economists tended to assume that he was trying to explain the prices of commodities in a competitive market as apparently Ricardo had intended to do. On that assumption the notion of socially necessary labour-time reduced the whole theory to a tautology, because the price which a commodity will bring is the only measure of the time that is socially necessary to produce it. Moreover, when the consequences of the theory are developed, this circularity comes out in a striking form. If surplus value is produced only by the consumption of labour-power, an industry in which the capital invested goes mainly to buy labour ought to return a large profit as compared with one in which it goes mainly to buy machinery. But as Marx knew, the return on all capital, however invested, tends to be equal. In the third volume of *Capital* he explained this by competition between capitalists for the more profitable forms of investment. But such competition can equalize profits only by its effect upon prices, and accordingly Marx now explained prices as fixed by the cost of production *plus* an average return on all the capital invested. Nothing but the sheerest accident would make the results of the two theories coincide, that is, cause a price fixed by cost of production to be the same as the value represented by the labour-power put into the commodity. This celebrated discrepancy between the first and the third volumes of *Capital* was the subject of a long controversy and was exhaustively presented by the Austrian economist, Böhm-Bawerk.[1] On the assumption that Marx's labour-theory of value is an attempt to explain prices, the argument is unanswerable.

This criticism, however, imputed to Marx a degree of economic positivism which neither he nor his predecessors among the classical economists possessed; it assumes that they were interested in showing

[1] *Karl Marx and the Close of his System*, Eng. trans. by Alice M. Macdonald (New York, 1898).

merely what prices, profits, and wages are. In fact, this was not quite the case. For though they meant in general to do this, they believed that an economic theory of value would serve as a defence of something or other, showing not only that it is so but that it ought or ought not to be as it is. In short, when Marx wrote, and for him as much as for others, the theory of value was a theory of just or natural price. Moreover, the criticism neglected the points at which the theory of surplus value was intended by Marx to depart from the general labour-theory of value which he took from Ricardo. Looked at from this point of view Marx's theory was an attempt to turn the tables on the bourgeois economists' defence of capitalism. In general this attempt was successful. In this defence labour-power figures in two very different senses, as a commodity for which the wage-earner gets a bare subsistence and as a creator of value which the capitalist receives entire over and above the subsistence of the workers. All the initiative, skill, and creative intelligence that workers put into production over and above what would keep them alive goes to the capitalist, who at the same time is supposed to be paid precisely for his own superior enterprise, foresight, thrift, and capacity to organize. As Marx says, the whole social productivity of labour is made to assume "the specious semblance of being the productivity of capital." The ultimate purpose of the theory of surplus value was to show that a competitive system in which labour-power figures as a commodity is dialectically self-destructive. Thus Engels thought that the upshot of what Marx's theory of value proved was that "labour *can* have no value," because the value of labour is as tautological as the value of value. The removal of the contradiction produces socialism, "which will emancipate human labour-power from its position as a commodity."[1] The whole apparatus of alleged contradiction was confusing in the last degree. What it amounted to was essentially a moral judgment that it is objectionable to treat labour as a commodity.

Marx, however, had a strong feeling of contempt, not unlike Hegel's, for the sentimental reformer who thinks that society will be affected by his moral feelings. This he directed at utopian socialists and the 'vulgar economists' who imagine that they can somehow take the good and avoid the evil in capitalism. On this point he stood with Ricardo and the classical economists in believing that capitalist production carries its own distribution of wealth with it. Both defence and criticism amount, Marx thought, to some fanciful idea of giving to every individual what he earns; the defence asserts that a freely competitive market does this automatically, the criticism asserts that it ought to be manipulated in some way to give the labourer the whole product of his labour. But in a fully socialized system of production, which is co-operative to such a point that no one by himself makes a

[1] *Anti-Dühring*, Eng. trans. by E. Burns, p. 228.

usable commodity, there is no way of telling what anyone produces. If the system breaks down at any point, there is no production at all. Unfortunately the labour-theory of value laid Marx open to serious misconstruction on this point. In his anxiety to show that capital as such produces nothing and labour everything, he would only grudgingly admit (though he does admit) that merchandising and organization are productive at all. This led to gratuitous difficulties and much unnecessary criticism. Marx was convinced, however, that any thoroughgoing change in the economic system must begin as a change in the method of production. Presumably even a fully socialized production would develop some characteristic plan of distribution suitable to its own preservation, but it is contrary to the spirit of Marx's economics to try to adapt production to any preconceived plan of distributing wealth.

THE COLLECTIVE WORKER

The import of Marx's theory of value, in contrast with that of classical economics, was to set up a different standard of reference to measure social justice or wellbeing. In both cases the value was assumed to be intrinsic rather than purely economic. The classical economy set up as an ideal the freely competitive market to which each individual was imagined to bring the product of his own labour to be exchanged for equal value and in which the freedom of exchange produces at once the greatest social production and a substantially just distribution. Against this Marx set up the wholly different ideal of a planned socialist economy, "an association of free individuals who work with jointly owned means of production, and wittingly expend their several labour powers as a combined social labour power."[1] It was this double standard of reference that made Marx's expression, "socially necessary labour-time," so ambiguous. On the supposition of a free market, exchange itself determines what is socially necessary; the price at which the market will absorb a commodity is itself the index of social need and in that sense a just price. Marx's standard of reference was a society in which production is regulated consciously to supply commodities where needed and in the quantity needed and in which the whole social power to produce is intelligently directed to yield a socially desirable result.

> Only when production will be under the conscious and prearranged control of society, will society establish a direct relation between the quantity of social labour time employed in the production of definite articles and the quantity of the demand of society for them.[2]

Such an "association of free individuals" is the reality around which

[1] *Capital*, Vol. I, Eng. trans. by E. and C. Paul, p. 52.
[2] *Ibid.*, Vol. III, Eng. trans. by Ernest Untermann, p. 221.

the capitalist economy wraps its mystifications of prices and profits, and which the dialectic is supposed to unfold.

The true productive unit, then, is society itself, the "collective labourer," organized for joint production by co-operation and the division of labour. But the mechanism with which the collective labourer works belongs to the capitalist, and a bourgeois economics construes the increased productivity gained by co-operation as the productivity of capital. Marx's economics tried to construe it in terms of human relations instead of the cash-nexus. Under the conditions that exist these relationships are, for the worker, stultifying and distorting. The perfection of the collective worker is purchased at the cost of narrowing specialization in its parts, the individual workers.

> It [manufacture] transforms the worker into a cripple, a monster, by forcing him to develop some highly specialized dexterity at the cost of a world of productive impulses and faculties. . . . To begin with, the worker sells his labour power to capital because he himself lacks the material means requisite for the production of a commodity. But now his individual labour power actually renounces work unless it is sold to capital.[1]

This result Marx believed to be at once an instrument of exploitation and a necessary stage in economic development. The coexistence of the two—socialized production and capitalist appropriation—is the underlying contradiction which drives contemporary society towards the association of free individuals and the classless society of the future.

This ideal society of the future, the supposed inevitable result of the dialectical development of capitalism, was really the driving force of moral aspiration behind Marx's social philosophy, just as the unity of German nationalism was for Hegel, or, for that matter, as political freedom and equality were for democrats. But it was an ideal far more radical in its demands, because it contemplated not merely the abolition of legal and political privilege but a reconstruction of the economic organization of society. It was characteristic of Marx that he never tried to envisage in detail what the realization of his ideal would be like and that he looked with distrust on all efforts to draw the outlines of a utopian commonwealth. The equal sharing of wealth, that favourite dream of utopian communists, was branded by Engels, and by Stalin after him, as the ideal of a petty bourgeois. In Marx's economics the distribution of wealth is really a question of social policy to be adjusted to the requirements of production, and any adjustment is compatible with the system if it does not give rise to differences of economic class. Neither did Marx undertake to say how the socializing of production can remove the stultifying effects of the division of labour or what form the control of 'society' over industry will take. Certainly he never seriously believed that in an industrial society control would disappear, unless with some profound change in human nature. Marx

[1] *Capital*, Vol. I, Eng. trans. by E. and C. Paul, p. 981.

merely contrasted the free control of a co-operative society with the coercive control of capitalism, much as democrats contrast the rule of the people with the rule of tyrants. At the point where a social philosophy enters upon the task of persuasion, it must give words a connotation according to its purpose. For Marx society, community, commonwealth, association are idealized words, as state was for Hegel.

The word state, on the contrary, is a word of bad connotation. Marx regarded the state as essentially an organ of capitalism, an instrument in the class-struggle, and the force by which exploited classes are kept in subjection. Merely as a matter of definition, therefore, there will be no state in a classless society. Marx in the *Poverty of Philosophy* and Engels in the *Anti-Dühring* envisaged a transition period, the dictatorship of the proletariat, in which the proletariat, by a revolution, destroys the existing political bureaucracy, converts the means of production into public property, and gradually brings into existence a classless society. In this process, as Engels said, the state "withers away." As socialism postponed its revolutionary purpose, this vague phrase was generally taken to mean that the capitalist state would gradually disappear with the evolution of socialism. Lenin in his *State and Revolution*, designed to restore the revolutionary character of Marxism, pointed out rightly that this was not what Engels had said, but that the proletarian dictatorship would gradually wither away as it destroyed the vestiges of capitalism. In any case Engels never tried to say definitely just what would wither away or what would be left afterwards. His explanation hardly made the matter clearer:

> The government of persons is replaced by the administration of things and the direction of the process of production.[1]

Marx's position was probably shaped largely by his relations with the anarchists, who made a considerable party among socialists. It was necessary to argue against any immediate anarchist attack on the state that doing away with capitalism was a first step. The problematical end-result might be left as anyone chose to imagine it. The dictatorship of the proletariat made it unnecessary to enlarge upon the utopian outcome but permitted the latter to hold out any speculative appeal it might have.

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[1] *Anti-Dühring*, Eng. trans. by E. Burns, p. 315. Cf. Engels's letter to Bebel, March 18–28, 1875; *Selected Correspondence*, pp. 33f.

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CHAPTER XXXIII

LENIN AND COMMUNISM

KARL MARX once said of himself that he was not a Marxist. This remark signified not only his own comparative indifference to systematic doctrinal completeness in formulating a social philosophy; it signified also the variety of social conclusions, both theoretical and practical, that grew more or less from his teaching. Though his philosophy became the intellectual organ of party-socialism, Marxism was never reduced to formulas that were universally acceptable even to those within the socialist parties. Outside the parties that were professedly Marxian, moreover, there were always groups that depended in one way and another upon him while at the same time they differed widely from each other. Radicals of all sorts—socialists, syndicalists, and anarchists—down to the World War made use of Marx's ideas but without excluding intellectual influences from other sources and without reaching anything like a static system of doctrine. In this sense Marxism was not so much a philosophy as an intellectual and ethical ferment. Quite apart from party-movements, however, and also apart from general philosophical conclusions, Marx's principal idea—that political movements and social institutions are intimately related to underlying economic forces—has proved widely suggestive. It has been used by innumerable historians, sociologists, and political scientists who were in no sense disciples of Marx. In the field of scholarship this idea constituted a problem rather than a solution, for though the fact is clearly perceptible that material and economic forces exert a powerful influence upon men's ideas, behaviour, and institutions, the mechanism of their action and the nature of the results produced require a knowledge of psychological causation that does not yet exist.

TYPES OF MARXIAN INFLUENCE

Among socialist movements that owed something to the influence of Marx but which were not in a strict sense Marxian should be mentioned the Fabian socialists and guild socialists in England. The Fabians as a group were never primarily interested in a social philosophy but rather in problems of administration and organization connected with a social control over industry and with the use of political power to improve the standard of living for the working class. Neither by training nor inclination were they intellectually attracted to Marx's Hegelian-

ism, and so far as they had a social ethics, the liberalism of the 1880's, already modified by the mildly Hegelian influence of T. H. Green, offered a sufficient basis for their projects of practical reform. On the side of economic theory, these Englishmen could as readily take the idea that economic values are socially created directly from Ricardo's theory of rent, already developed into Henry George's criticism of the site-value of land, as from the more indirect and involved theory of surplus value. Yet Marx's criticism of classical economics was one factor among others in undermining the dogma of economic *laissez faire*. The same is true of the English guild socialists, who formed a later outgrowth of Fabian socialism. With Marx the Fabians and the guild socialists shared both the theory that value is created corporately by society more truly than by individuals singly and the moral conviction—more clearly separated from theory by English writers than by Marx—that any institution, private property included, must be justified by its social utility. They believed that economists, under the influence of capitalism, had in effect defended acquisition without reference to the rendering of valuable service. They shared with Marx an apprehension about the human consequences of industrial routine, but they shared also with William Morris an admiration for the moral qualities of craftsmanship and were repelled by Marx's frank acceptance of economic control over the arts in the industrial system. Partly for this reason their plans for a decentralized organization of industry in guilds, and a corresponding diminution of political power, belonged to the ideology of craft-unionism and were not Marxian at all. Apart from their value in pointing out difficulties in a too highly centralized scheme for regulating industry, such plans were probably more speculative than feasible.

Another group of radical social theorists who owed much to Marx and who yet stood outside the main tradition of party-socialism were the syndicalists. In addition to ideas derived from Marx they continued to carry forward ideas drawn from other socialists such as Proudhon and also ideas drawn from anarchists like Bakunin and Kropotkin. The corner stone of syndicalist doctrine was the inevitability of the class-struggle and the need of the proletariat to perfect its own appropriate forms of collective organization and institution. Like the communists, syndicalists stressed the more revolutionary parts of Marxism, but they were quite outside the Marxian tradition in denying the value of political action. For this reason they tended to rely on direct action, the general strike, and other forms of violence as distinguished from organized political revolution. Like the guild socialists they looked forward to a pluralist form of industrial organization, and like the anarchists they aimed at the abolition of the state rather as an immediate end than as a remote ideal in the fashion countenanced by Marx.

One book produced by a syndicalist writer—Georges Sorel's *Réflexions sur la violence*[1]—was of considerable importance as indicative of the drift in at least one phase of radical social philosophy. Sorel was frankly irrationalist or anti-intellectualist, a romantic who saw both in nature and in society not intelligence but blind will. From Marx he selected by preference the elements of mystical evolutionism carried over from Hegel, and he united these with the broadly similar metaphysics that Eduard von Hartmann had constructed by combining Hegel with Schopenhauer. Capitalism in Marx, Sorel said with a certain amount of truth, behaves like Hartmann's Unconscious, a blind but cunning force which evolves higher forms of society without intending them. More directly Sorel followed Henri Bergson, whose notion of intuition as a kind of super-rational insight into evolutionary process belonged to the same romanticist tradition. The myth in Sorel's syndicalism is the creation of this type of intuition. It is a body of images capable of evoking sentiment instinctively. Myths, therefore, have been a great force in history and all great social movements—Christianity, for example—have taken place in the pursuit of a myth. There is no point in trying to analyse a myth or in discussing its practicability; it merely supplies the emotional and volitional drive that gives a group cohesion and enables it to put its energies into play. For the proletariat Sorel offered the somewhat feeble myth of the general strike, which seems less appealing than the classless society or national greatness. In fact, of course, Sorel's frank description of a social ideal as a myth, the creation of sentiment to appeal to the will, was directly contrary to the spirit of Marx who, like Hegel, relied on the dialectic to produce a union of reason and passion and to lend logical validity to the end as well as the means. Nevertheless, his stress on driving power and will, his belief that life is controlled by instinctive forces, and that intuition is a better guide than intelligence, was broadly representative of a common tendency in the social philosophy of the nineteenth century. Sorel's most important influence was exerted on Mussolini and other Italian fascists, for whom the effective myth is the nation.

The most direct and important development of the Marxian tradition took place among the theorists of party-socialism and especially in Germany.[2] Even here, however, there was never anything approaching unanimity either with respect to the interpretation of Marx or the proper development of his ideas on questions either of theory or of tactics. In respect to tactics the chief point at issue was the propriety of co-operation between socialist parties and bourgeois governments,

[1] Paris, 1905; Eng. trans. by T. E. Hulme (New York, n. d).

[2] This and the subjects mentioned in the preceding paragraphs are fully discussed, with references to the literature, in Francis W. Coker's *Recent Political Thought* (1934), ch. iii–ix.

either by accepting office or by supporting measures especially of social legislation. Always in theory internationalists, socialists were nevertheless divided upon the question whether this implied active opposition to all pursuit of national ends. Whether the increase of poverty in the proletariat is to be taken as a relative or an absolute increase, whether the development of capitalism means a sharpening of the class-struggle and a clearer line between proletarian and capitalist, whether business-crises grow more frequent and more severe, were all subjects upon which Marxian theorists differed. All such theoretical questions may, perhaps, be said to have come to a head in the issue between those who still professed to regard Marxism as a philosophy of social revolution and those who become frankly reformists in their purposes and evolutionary in their theory. Before the World War the two chief representatives of the opposed points of view in Germany were Karl Kautsky and Eduard Bernstein, respectively. Eventually Kautsky proved so little a revolutionist that the issues now seem inconsequential. After the war, and with the rise of communism, socialists like Norman Thomas in the United States or De Man in Belgium practically ceased to be Marxian in a revolutionary sense. Substantially they are only slightly more radical than left-wing liberals, frankly eclectic in thought, moralist in their method of persuasion, and though collectivist in aims, not revolutionary in their procedure. More and more, therefore, the characteristic form of Marxism has become that developed by Lenin and made current by the success of the communist Revolution in Russia.

LENIN'S RELATION TO MARXISM

Lenin's Marxism was in the last degree dogmatic and orthodox, supported by the *ipsissima verba* of the master and designed in large part to provide a creed for a fighting organization of professional revolutionists. Yet it was responsible for the most considerable changes that any follower of Marx ever made in the master's teaching. Lenin professed a regard, almost a reverence, for theory as an indispensable part of the equipment of a revolutionary movement. He conceived of theory as a guide to action, not as a body of statically true doctrine, but as a mass of suggestive ideas, to be recognized and picked out in a concrete situation, to be used in assessing its possibilities, and to be modified in the application. There is no doubt that Lenin was a genius in adapting both his thought and his action to circumstances, while at the same time he continued to pursue what he believed to be the essentials of his programme. It was this remarkable combination of suppleness and rigidity that made him an incomparable leader. He could follow a policy almost to the breaking-point but not quite; he could change before either his followers or his opponents knew that a crisis had occurred; he could give way when he must and come back

when he could; and always he could make a change of front appear as the logical next step in a prearranged programme of advance. Often it is difficult to tell what was a valid application of principles, what was legitimate recognition of new facts, and what was sheer opportunism. Opportunism in respect to the philosophy of Marx was the theme of Lenin's bitterest and most constant condemnation. Yet the changes that he made even in Marxian theory were certainly very considerable, and it is doubtful whether Lenin himself always appreciated their extent.

Stalin[1] has said that there are three interpretations of Lenin's relation to Marx, all at least partially correct. The first is that he reverted from the final form of Marx's philosophy, stated mainly in *Capital*, to its more revolutionary form contained in the early pamphlets. It is true that one of Lenin's chief purposes was to save Marxism from the opportunists and make it again a revolutionary creed, and references to *Capital* were comparatively few in his works. But in itself this says nothing about Lenin; he was certainly not interested in substituting one literary tradition for another. The second interpretation is that he adapted Marxism to the state of affairs in Russia, and this also is true, since his life was spent as a leader of one branch of the Russian socialist party, and most of what he wrote had to do with that party or with the Russian Revolution. But this interpretation, if taken as a sufficient account of his work, is equivalent to saying that, from his own point of view, Lenin's work was a failure. For he certainly believed that Marxism was a general social philosophy having more than merely a national application. The third interpretation of Lenin's work is that it brought Marx down to date, taking account of the further evolution of capitalist society and reformulating the theory and the tactics of Marxism in the light of developments of which Marx saw only the beginning. From this point of view Lenin's philosophy is regarded as Marxism in the latest or imperialist stage of the capitalist system, and the modifications which he made are merely the perfecting of the system. This is certainly the light in which Lenin himself would wish his ideas to be viewed.

It is true that some of Lenin's most important and characteristic doctrines had to do with the organization and tactics proper to the Russian socialist party and that the part which he was finally able to play in Russia in 1917 depended upon his leadership, during the preceding fifteen years, of one wing of that party. Organized in 1898 as the organ of the urban proletariat and largely with the purpose of substituting revolutionary mass-tactics for sporadic acts of violence, the party at once divided into two factions which, by the accident of their relative strength in the party convention of 1903, came to be known as Bolshevik and Menshevik (majority and minority, respectively). The

[1] *Leninism*, Eng. trans. by E. and C. Paul (London, 1928), p. 13.

differences between the two factions turned upon the nature of the organization most suitable to the new party, and Lenin led the group that stood for a tight organization under rigid discipline, not too large for secrecy, and providing leadership for the less class-conscious but potentially revolutionary masses in the trade-unions and among the workers. This question of party organization formed the subject of Lenin's first important work, the pamphlet entitled *What Is To Be Done?*[1] The conclusion reached is suggested in the following passage:

> A small, compact core, consisting of reliable, experienced and hardened workers, with responsible agents in the principal districts and connected by all the rules of strict secrecy with the organizations of revolutionists, can, with the wide support of the masses and without an elaborate set of rules, perform all the functions of a trade-union organization, and perform them, moreover, in the manner Social Democrats desire.[2]

TRADE-UNIONIST AND SOCIALIST IDEOLOGY

Though *What Is To Be Done?* has to do chiefly with the question of organization, it touches, and very characteristically, upon important points of Marxian theory. Lenin's opponents objected that his limited, rigidly disciplined party was a virtual denial of the Marxian principle that the relations of production in capitalism form the proletarian class and its characteristic revolutionary ideology. Hence, they argued, a revolutionary movement must arise spontaneously; it cannot be 'made,' since neither force nor exhortation can run ahead of the underlying industrial conditions upon which the proletarian state of mind depends. Lenin met this argument, which had certainly the colour of sound Marxism, with a flat denial. The argument, he asserted, confuses the mentality of trade-unionism with that of socialism. Spontaneously the workers do not become socialists but trade-unionists; socialism has to be brought to them from the outside by middle-class intellectuals.

> We said that *there could not yet be* Social-Democratic consciousness among the workers [in the Russian strikes in the 1890's]. This consciousness could only be brought to them from without. The history of all countries shows that the working class, exclusively by its own effort is able to develop only trade-union consciousness, *i.e.*, it may itself realize the necessity for combining in unions, to fight against the employers and to strive to compel the government to pass necessary labour legislation, etc.[3]

The socialist theory of Marx and Engels, he continued, was created by educated representatives of the bourgeois intelligentsia and it was introduced into Russia by the same group. A trade-union movement is incapable of developing an ideology for itself, and in consequence the choice must lie between allowing it to fall a prey to the ideology of the

[1] Published in 1902. *Collected Works*, edited by the Lenin Institute, Vol. IV, Book II.
[2] P. 194. [3] Pp. 114 f. The italics are Lenin's.

middle class or indoctrinating it with the ideology of socialist intellectuals.

It is true that this contrast between socialism and the spontaneously developed mentality of the working class was not altogether of Lenin's making and that he was able to quote a passage from Kautsky to support it. It referred to a deep-seated uncertainty in Marx's philosophy: the relation between the non-voluntary effects of economic conditions in producing a mentality characteristic of social classes and the voluntary efforts of individuals to modify or direct the ideological results of those conditions. Many critics had asked, If socialism is inevitable, why work for it? The vigour of socialist parties had sometimes been sapped by too much dependence on natural growth. Though Lenin was touching an old question, he was raising it in a peculiarly provocative form. For if the growth of capitalist production creates in the proletariat only the mentality that makes trade-union tactics possible, the Marxian principle that all ideology is a superstructure built upon the foundation of production-relations apparently ought to imply that trade-unionism is the final answer of the proletariat to capitalism. Nothing could be farther from Marx's meaning. On the other hand, if socialism and a socialist ideology must be produced by a bourgeois intelligentsia and introduced into the proletariat "from the outside," what can it mean to say that material conditions of production and not 'ideas' are the effective causes of social revolution? And still more difficult to understand, why should capitalist production, which creates the opposed bourgeois and proletarian classes and their ideologies, bring into existence a middle-class intelligentsia devoted to the task of making an ideology for the proletariat? Either the class-struggle does not wholly determine the mentality of the class or else it produces in the middle class a perverted form of class-consciousness that devotes itself to the destruction of the class.

Lenin's conception of the party and its relation to a proletarian movement was intelligible in the light of the situation in Russia, but it was doubtfully Marxian. Marx's emphasis had always been upon the evolution of class-consciousness under the influence of the relations of production, and apparently he always assumed that his own philosophy represented the ideology that capitalist production tended to create in the working-class. This philosophy can only "shorten and lessen the birth-pangs"; it cannot help a society to "overleap the natural phases of evolution." Lenin's conception was in principle quite different. Not only in Russia—a country in which as he repeatedly said Marxism is peculiarly in danger of being perverted by the ideas of the petty bourgeoisie--but everywhere the working class is unable to work out an ideology of its own. It is hung between two ideologies, that of the bourgeoisie and that of the middle-class socialist intelligentsia. Its fate is to be captured by one or the other, and the essential tactical

problem of the party is to capture it. The argument ran parallel to one that Marx had used in another connection, that the peasantry and petty bourgeoisie, having no future in a developing capitalist society, must fall under the control either of capitalists or proletarians and ultimately of the latter. Lenin used this argument of the proletariat itself. The result is that for him the rôle of the party became enormously more important, since it became responsible for a spread of socialist ideology that Marx regarded as largely a normal result of the class-struggle itself, and that the rôle of intellectuals in the party was correspondingly magnified, since they had to bring this ideology to the working class 'from the outside.' This explains the great importance that Lenin always attached to theory as the guide of tactics. The party became a picked body of the intellectual and moral *élite*, in the midst of all working-class movements, to be sure, and providing leadership, but always distinguishable from the body of workers. It seems clear that, even as early as 1902, and quite without reference to imperialist capitalism, Lenin had evolved a theory of the party which does not follow from anything in Marx and is even incompatible with what most socialists thought that Marx meant.

THE SOLIDARITY OF THE PARTY

The communist party thus becomes a staff-organization in the struggle of the proletarian class for power, and Marxism is the creed that holds it together, the guide of its action, and the subject-matter by which it extends the circle of class-consciousness. Ideal union through the principles of Marxism and material union through rigid organization and discipline were the two foundation-stones upon which, from the beginning of his career, Lenin proposed to build a revolutionary movement. Two passages may be placed side by side to show how constantly this purpose was maintained. The first is from his pamphlet, *One Step Forward, Two Steps Backward*, published in 1904:

> The proletariat has no weapon in the struggle for power except organization. . . . Constantly pushed down to the depths of complete poverty the proletariat can and will inevitably become an unconquerable force only as a result of this: that its ideological union by means of the principles of Marxism is strengthened by the material union of an organization, holding together millions of toilers in the army of the working class.

The second is from a resolution adopted at a congress of the Communist International in 1920:

> The Communist Party is part of the working class: its most progressive, most class-conscious and therefore most revolutionary part. The Communist Party is created by means of selection of the best, most class-conscious, most self-sacrificing, and far-sighted workers. . . . The Communist Party is the lever of political organization, with the help of which the more progressive

> part of the working class directs on the right path the whole mass of the proletariat and the semi-proletariat.[1]

Obviously within the party individual freedom, not only of action but of opinion, must be strictly subordinated to discipline and unity of command. For ideology is itself part of the class-struggle, an ideal agency of discipline and organization. Nothing can surpass the dogmatism with which at all times, from 1902 on, Lenin asserted the integrity of the Marxian philosophy and its revolutionary value.

> To belittle socialist ideology *in any way*, to *deviate from it in the slightest degree*, means strengthening bourgeois ideology.[2]

Freedom of criticism is opportunism, eclecticism, and absence of principle, a kind of "Bernstein revisionism."

> We are marching in a compact group along a precipitous and difficult path, firmly holding each other by the hand. We are surrounded on all sides by enemies, and are under their almost constant fire. We have combined voluntarily, especially for the purpose of fighting the enemy and not to retreat into the adjacent marsh. . . . And now several in our crowd begin to cry out—let us go into this marsh![3]

In part, then, 'theory' meant for Lenin a creed, a dogma to be held integrally and unswervingly as part of the tactics of battle. Yet it would be easy to quote an equal number of passages in which he asserted that theory is the guide of action, subject to the vicissitudes of life and circumstance and to be changed remorselessly as occasion demands. In the pamphlet *One Step Forward, Two Steps Backward*, he tells of his delight in the seemingly discouraging wrangling of party-conferences:

> Opportunity for open fighting. Opinions expressed. Tendencies revealed. Groups defined. Hands raised. A decision taken. A stage passed through. Forward! That's what I like! That's life! It is something different from the endless, wearying intellectual discussions, which finish, not because people have solved the problem, but simply because they have got tired of talking.[4]

This fixed faith in the constancy of principles, coupled with freedom of controversy within the bounds fixed, is almost like scholasticism.

LENIN ON DIALECTICAL MATERIALISM

The same conception of party-solidarity really prevails in what was ostensibly Lenin's principal theoretical work, his *Materialism and Empirico-Criticism*, published in 1908. The book was written as an incident in a controversy in the colony of Russian socialist exiles at Geneva and specifically to refute the effort of certain theorists in the

[1] These two passages are quoted by W. H. Chamberlin, *The Russian Revolution, 1917–1921*. Vol. II (New York, 1935), p. 361.
[2] *What Is To Be Done? Works*, Vol. IV, Bk. II, p. 123. The italics are Lenin's.
[3] *Ibid.*, Vol. IV, Bk. II, p. 97.
[4] Quoted by Lenin's wife, N. K. Krupskaya, *Memories of Lenin*, Eng. trans. by E. Verney (New York, 1930), pp. 102 f.

group to align Marxism with the scientific positivism of Ernst Mach and others. Such a change, it is true, would have involved abandoning most of Marx's overt philosophy, the dialectic and his other affiliations with Hegelianism. Yet it might have been quite in the spirit of many passages in which he had described dialectical materialism as merely a valuable working hypothesis for historical and other social studies. What Lenin saw in it, however, was mainly a dangerous 'deviation' from Marxian orthodoxy and hence a threat to the unity of the revolutionary movement; it is bad communism, the sign of a 'guilty conscience.' Even the desire to find a new point of view in philosophy, or a new theory of value, "betrays some poverty of spirit."

> You cannot eliminate even one basic assumption, one substantial part of this philosophy of Marxism (it is as if it were a solid block of steel) without abandoning objective truth, without falling into the arms of the bourgeois-reactionary falsehood.[1]

Properly speaking this book ought to have been Lenin's chief contribution to the philosophy of Marxism, for in it he examined ostensibly materialism and dialectic and the relationship between Marxism and science both natural and social. In fact, it is both dogmatic and superficial, proving nothing except that Lenin had little competence in general philosophy. He adopted as final the classification of all philosophical systems as either idealist or materialist from Engels's *Feuerbach*. He traced correctly the scientific positivism which he was examining to the tradition of Hume and Kant, and then repeated the superficial argument by which Engels had tried to show that the mere occurrence of empirical verification refutes empiricism. Throughout he represented positivism as merely a modified form of Berkeleyan idealism and a covert defence of some kind of religious faith, neglecting the plain historical fact that the influence of Hume has been the most potent solvent of religious dogmatism that modern philosophy has produced. Materialism, on the other hand, is reduced in Lenin's exposition to the not very important proposition that something exists independently of our knowledge of it, and the meaningless figure of speech that ideas 'reflect' objects. His account of dialectic scarcely went beyond well-worn phrases borrowed from Engels. Truth is at once relative and absolute, that is, partly incorrect but an "approximation" to absolute objective truth. Every ideology is historically conditioned, but it is an unconditional truth that there is an objective reality corresponding to every scientific theory. This, he says, has the merit of being indefinite enough to prevent science becoming dogmatic, but definite enough to exclude any form of faith or agnosticism. As for the natural scientists, it is their misfortune not to have studied dialectic!

Behind Lenin's very inadequate treatment of these questions it is

[1] *Collected Works*, Vol. XIII, p. 281.

hard to see, at the most, more than a sound instinct. That is to say, the instinct is sound, given his own intellectual position. It is this that creates in him a feeling of profound repulsion against the positivism of modern science as the real antithesis to metaphysics, whether his own or the idealist's. Idealism is a perversion, but it was to him intelligible because its desire for absolute certitude is of the same family as his own reliance upon the ultimate truth of Marxism. Even clericalism, for which he believes idealism to be a cloak, is "a sterile flower, yet one growing on the living tree of a prolific, true, powerful, omnipotent, objective, and absolute human knowledge." His desire to eliminate positivism was due to a natural human wish to keep a traditional quarrel within accepted limits, where stock arguments still have currency. Nevertheless, the important philosophical question is whether these resounding phrases about "absolute human knowledge" really mean anything, and whether the change from dialectical idealism to dialectical materialism really accomplished as great a revolution as Marx imagined. In other words, the question is whether dialectic in any form was a real scientific method and whether an unconditional law of historical development is a tenable conception. At the present time both logic and science seem inclined to answer these questions negatively, and if this answer stands, Hume was a much more significant figure in modern thought than Hegel.

The specific nature of the social sciences, the position of dialectic in them, and their relation to the physical sciences form an important aspect of this question. Marx, in contrasting metaphysical with dialectical materialism, regarded the former as having been absorbed by physics and chemistry and the latter as providing a method appropriate to social studies, in which development is a factor of primary importance. In effect this still left the historical and non-historical sciences distinct. Lenin and other dialectical materialists seem inclined to close this gap, though on the specious ground that modern physics is becoming dialectical.[1] On the other hand, they open a new gap between two kinds of philosophy and social science, that produced by the bourgeois class in its own interests and that produced by the proletarian class equally in its own interest. In part this arises from a justifiable irritation, already strongly expressed by Marx, at the academic tendency to cover a defence of vested interests with a pretence of scientific impartiality. But apparently more is intended, namely, that in philosophy, economics, and politics impartiality must be a pretence. These subjects are so close to human valuations, selection of material in the light of its supposed importance plays so great a part in them, verification by successful application is so much a matter of chance, and valuations are so difficult to standardize that objectivity of judgment is impossible. Perhaps this must be accepted as the fact, but it is hard to see why a

[1] N. Bukharin, *Historical Materialism* (1925), p. 75.

philosopher or an economist should make a virtue of it. What it must prove is that there is no such thing as a social science, in any sense comparable to the natural sciences.

This, however, is not the conclusion reached by Lenin or any dialectical materialist. Though there are two social sciences, one produced in the interest of the middle class and one in the interest of the proletariat, the latter is held to be definitely better. This is not because it is formally more exact but because the proletariat, whose interests it represents, is the progressive class, the class which is in the vanguard of social development, while the middle class is hopelessly trying to hold back the inevitable change from capitalism to communism. A similar point of view is sometimes stated by communist writers on esthetic criticism with reference to bourgeois and proletarian literature; the former is decadent while the latter is progressive. The whole ideology of the middle class, including its social science, is thought to be infected with the seeds of decay. Considered as an argument, this position evidently depends upon two assumptions, that the success of communism is certain and that its progressive nature can be proved. These in turn depend upon the dialectic, and particularly on its ability to give a logical proof of a moral preference, since to judge that communism is progressive is evidently a valuation and not merely a fact. Despite its so-called materialism the dialectic remains for Marxians what it had been for Hegel, a way by which it is believed to be possible to show the logical validity of ends or values. As Professor Sidney Hook says of Marx's philosophy of history, "it fuses the logic of analysis with the poetry of passion."[1] The question, of course, is whether this kind of fusion can ever attain the objectivity that scientific knowledge claims.

IMPERIALIST CAPITALISM

The outbreak of the World War turned Lenin's attention more definitely towards international affairs and led to the formulation of his theory of the imperialist war and of communism in the imperialist stage of capitalism, which must be regarded as his chief contribution to Marxist theory.[2] The war brought to a head all the smouldering differences that had divided socialists for years, such as the support of national interests, the voting of war-credits, and participation in bourgeois governments. After a little hesitation nearly all socialists fell in behind their national governments. Lenin, an exile in Switzerland, stood out and belaboured the opportunism and chauvinism of the Second International for its betrayal of socialism. In this he

[1] *From Hegel to Marx* (1936), p. 41.

[2] See the *Collected Works*, Vols. XVIII and XIX, especially *Under a Stolen Flag, Socialism and War* (with G. Zinoviev), *Imperialism: The Highest Stage of Capitalism*; also Bukharin's *Imperialism and World Economy* (New York, 1929). These were written in 1915 and first published after the March Revolution in 1917.

continued the attacks which he had been making for years upon every form of revisionism, only now he included in his condemnation nearly all socialists everywhere, except his own wing of the Russian party and a few other dissenters like Karl Liebknecht and Rosa Luxemburg in Germany. From the beginning Lenin argued that the attempt to apportion guilt among the belligerent nations was nonsense, that all were dominated by the same kind of economic motives, and that the war was essentially a capitalist quarrel about the division of booty. In this quarrel the working class of no nation has any vital concern; certainly, he said, the Russian workers have no interest in taking away the spoil of one young robber (Germany) in order to give it to two old ones (England and France). But Lenin was at no time a pacifist. His object from the first was to "turn the imperialist war into a civil war."

The "betrayal of socialism" by the socialists was obviously an anomaly from the point of view of Marx's philosophy as it was commonly understood. For the class-struggle ought to have been growing sharper and society more clearly divided into bourgeoisie and proletariat as capitalism developed. Hence Lenin, as the most rigid of Marxians and the enemy of all revisionism, must supplement the theory to account for what appeared like a gross exception. He began with an unquestionable historical fact: the period after 1871 was mainly one in which socialist parties had grown by peaceful means to a size where they could hope to succeed by parliamentary tactics. Inevitably there was an infiltration of petty bourgeois membership and ideology, and the substitution of trade-union for revolutionary tactics. But since ideology must follow the relations of production, this fact itself needs to be traced back to the inherent development of the capitalist system. This Lenin accomplished by supposing that in the successful imperialist countries the expansion of markets and the increase of production had enabled a small part of the workers, especially in the skilled trades, to profit. This produced between 1871 and 1914 a kind of backwash in the class-struggle. A small but influential part of the workers joined with the capitalists to exploit the great mass of unskilled workers, especially workers in backward countries and colonies. The ideology of this movement was petty bourgeois. It fell a victim to the illusion of peaceful evolution and the harmony of class-interests. This theory may well have been suggested to Lenin by Engels's observations on the British labour-movement and the effect of foreign trade upon it.

This secondary movement in the class-struggle was thus due to the peculiar qualities of capitalism in the period, and these in turn corresponded definitely to a certain stage in the development of the capitalist system as a whole. In his description of this imperialist stage of capitalism Lenin assembled a number of characteristics that had been described by many authors before him, both socialist and non-socialist, expanding Marx's account of capitalist accumulation. The units in

which industry is organized steadily tend to grow larger until they become monopolies, either of a whole industry or of a vertical string of related industries. The market becomes world-wide, and prices both of commodities and of labour tend to be fixed in the world-market. Competition practically ceases within the nation and so loses the power to keep down prices, while more and more it assumes the form of rivalry between national monopolies. At the same time tariffs cease to nourish infant industries and become weapons in national trade-wars. With the formation of industrial combinations banking capital is fused with industrial capital, and industry comes more and more under bankers' control. Capital itself becomes a significant item of export. The steady pressure for larger markets and the demand for raw materials, both inherent in the expansion of capitalist production, result in an international scramble for undeveloped territory and the control of backward peoples. In international politics the vital question becomes the partition of exploitable territory and population; in internal politics capitalist control becomes more direct, with the result that parliamentary institutions become more and more a sham. Reduced to its essentials an imperialist war, such as that begun in 1914, is a struggle between syndicates of German capitalists with their subsidiaries and syndicates of allied French and English capitalists with their subsidiaries for the control of Africa. To be sure, eddies and backwashes occur, as in the hope of Russian capitalists to get Constantinople or of the Japanese to exploit China; in the backward nations there are even *bona fide* nationalist movements, as in Serbia or India.

THE IMPERIALIST WAR

Now the purpose of Marxian theory is to provide a guide to proletarian tactics, and tactics must be fitted to the nature of the epoch in which they are used. The theory of imperialist capitalism enabled Lenin to advance a new theory of the significant periods in the evolution of European society. The turning-points he took to be 1871—fixed apparently by the Paris Commune, the last important revolutionary outbreak—and 1914, the beginning of the first imperialist war. Between the French Revolution and 1871 capitalism was on an ascending curve and the bourgeoisie was a progressive class, compared with the remnants of feudalism which it displaced. In this period it produced its characteristic—and, in their time and place, its valuable—social and political consequences, notably the democratization of government and the liberation of nationalities. The proletariat was in a process of formation and was therefore obliged to adjust itself to the expanding power of the bourgeoisie. Consequently it was sound socialist tactics to inquire, as Marx did in 1859, whether the international interests of the proletariat would be best served by the success

of Austria or France. War in this period was, by and large, an agency in the forming and freeing of nationalities, and socialists could logically co-operate with this process. The period from 1871 to 1914 was, so to speak, the flat top of the curve, the age of capitalist domination and incipient decay, in which the class-struggle was confused by a false appearance of conciliation and the capitalist organization of society took on the monopolist and imperialist characteristics just described. In 1914 the World War signalized the end of this period, the beginning of the precipitate fall of the curve of capitalism. The bourgeoisie has now become a decaying and reactionary class, interested not in production but in consumption, with the typical psychology of the *rentier*,[1] and following a policy imposed on it by finance-capitalism. In this period there must occur a series of imperialist convulsions, of which the war is the first but not necessarily the last, and in it the situation has again become definitely revolutionary from the point of view of a proletarian party. In 1914 a progressive bourgeoisie is ridiculous; there can be no question of an alliance between the proletariat and any group of national imperialist capitalists; the purpose of the working class must be the overthrow—almost certainly by violence[2]—of international finance-capitalism.

By this very able supplementation and extension of Marx's analysis of capitalism, Lenin could interpret the existing national and international situation by means of the categories provided in the Marxian system. The opposing interests of imperialist national groupings could be presented as the outgrowth of 'contradictions' between the productive forces of industry and the restraints imposed on it by an outworn ideology, and the imminence of a proletarian revolution could be deduced as Marx had already deduced it in the 1840's. According to Lenin, the contradiction in 1914 lies substantially between the international nature of industry and the restraints imposed by national political divisions. The ruling class which controls production, and labour as well, is divided into national groups with competing interests that have no counterpart in the system of production itself. National states, under the control of these artificial groupings, have become a clog upon the normal development of production. The new ideology of national solidarity and self-sufficiency, with the corresponding policies of tariff-exclusion and national monopoly, stands square across the path of expansion appropriate to the economic system, and this expansion appears in the perverted form of imperialist annexation. Inevitably, according to the theory, the underlying forces of production must assert their mastery. The war will centralize political power,

[1] Cf. Bukharin's analysis of Böhm-Bawerk's theory of value as representing the ideology of a consuming class; *The Economic Theory of the Leisure Class*, New York, 1927. The book was written in 1914 before the War and first published in 1919.

[2] Kautsky was arguing that the peaceful development of a world-economy within the capitalist system was possible.

destroy small states, and expand monopoly. But it will also bring the class-struggle, as one of the permanent forces of capitalist society, back to its normal proportions, temporarily distorted by imperialism.

> The war severs the last chain that binds the workers to the masters, their slavish submission to the imperialist state. The last limitation of the proletariat's philosophy is being overcome: its clinging to the narrowness of the national state, its patriotism. The interests of the moment, the temporary advantage accruing to it from the imperialist robberies and from its connections with the imperialist state, become of secondary importance compared with the lasting and general interests of the class as a whole, with the idea of a social revolution of the international proletariat which overthrows the dictatorship of finance capital with an armed hand, destroys its state apparatus and builds up a new power, a power of the workers against the bourgeoisie.[1]

followed by Engels in 1895 when he acknowledged, in editing Marx's pamphlet on the French Revolution of 1848, that capitalism "still had great capacity for expansion" beyond what he and Marx supposed at the earlier date. But the theory also has a remarkable capacity for expansion. What is foretold by means of it is always the end, and the revision consists in putting in new intermediate stages between the present and the end. This is hardly scientific prediction, as dialectical materialists like to believe. A predetermined end that arrives by an unknown path and after an interval of time that cannot be specified belongs rather to the realm of vitalist evolution than to that of scientific prediction. There are, of course, probabilities that make a proletarian revolution more or less likely and that give it more or less chance of success if it occurs. Such probabilities depend in no way upon dialectic, and conversely the supposed necessity of the proletarian revolution seems to have nothing to do with probability. It is envisaged as a tendency, or drive, or force directed towards a result, and capable of persisting against setbacks and counter currents. This is the sort of quality that vitalists have always attributed to the vital force and that Hegel attributed to the Idea, but there is little about it that is empirical or scientific.

BOURGEOIS AND PROLETARIAN REVOLUTION

Lenin's theory of capitalist imperialism supplied additional justification for the revolutionary tactics which he had always advocated. In 1917 the March Revolution and his return to Russia in April turned his attention towards the question of revolution in Russia. It led at once to an even more daring departure from what had been thought to be the implications of Marxism. The revolution which had created the Kerensky government was, by Marxian standards, a bourgeois revolution; it took power from the old nobility and gave it to the

[1] Bukharin, *Imperialism and World Economy*, Eng. trans., p. 167.

middle class. It was a settled principle of Marxism that any revolution, bourgeois or proletarian, occurs not through a sporadic application of force but must be prepared by the proper political and economic development. It followed that the bourgeois revolution must be 'completed' before the proletarian revolution could properly be begun. It was this settled interpretation of Marxism that, to the astonishment of his followers and finally of Marxists everywhere, Lenin proceeded to set aside as antiquated. He at once perceived that the essence of the situation in Russia was what he called "dual power," the existence side by side of the bourgeois Provisional Government and the soviets.[1] With the insight of a tactical genius he saw in this situation the possibility of an immediate revolution by the combined workers and peasants, if only these two forces could be held together. The soviets he chose to interpret as the embryo of a revolutionary dictatorship following a type set by the Paris Commune of 1871, thus spreading over them the aegis of Marxian theory, though Marxists had been, and still were, a small minority among their members.

The conception that a time of preparation must elapse between the bourgeois and the proletarian revolutions Lenin boldly relegated to "the archive of 'Bolshevik' pre-revolutionary antiques," and in the name of "living Marxism."

> It is necessary to acquire that incontestable truth that a Marxist must take cognizance of living life, of the true facts of reality, that he must not continue clinging to the theory of yesterday, which, like every theory, at best only outlines the main and the general, only approximately embracing the complexity of life. . . . Whoever questions the "completeness" of the bourgeois revolution from the old viewpoint, sacrifices living Marxism to a dead letter. According to the old conception, the rule of the proletariat and peasantry, their dictatorship, can and must follow the rule of the bourgeoisie. In real life, however, things have already turned out otherwise; an extremely original, new, unprecedented interlocking of one and the other has taken place.[2]

That Lenin grasped "living life" was perhaps proved by the success of the new revolution a few months later, but it was also true that he had made a great departure from what Marx's philosophy had always been thought to mean. Nothing in the whole system was better settled than the proposition that a revolutionary ideology can be created only by the training of the proletariat in capitalist industry. The theory that politics depends upon the relations of production implies this. Marx had said that the final purpose of *Capital* was to show that no nation could "overleap the natural phases of evolution." Engels in the *Anti-Dühring* had used three chapters to show that force can do no more than supplement a revolutionary situation prepared by economic

[1] *On Dual Power* and *Letters on Tactics* (*Collected Works*, Vol. XX), Bk. I, pp. 115 ff. Lenin had been in Petrograd less than a week.
[2] *Ibid.*, Vol. XX, Bk. I, p. 121.

development. In 1915 Lenin had believed that a socialist revolution in Russia was impossible, though he hoped for a democratic republic there and for socialist revolutions in more advanced countries.[1] Even in 1917, before coming to Russia, he thought of a Russian revolution as a temporary expedient which might indeed fail, but which might succeed until the situation could be saved by its becoming "a prologue to the world socialist revolution."[2] His change of position, as he frankly admitted, was an inspiration of the moment. On the other hand, it was merely an extension of the changes in Marxian theory that he had made years before. He had always considered socialist ideology as the creation of the intelligentsia rather than as a spontaneous product of industrial relations, and he had always contemplated a situation in which this ideology was actually possessed by a very small proportion of workers.

Lenin's rather abrupt reversal of an important part of traditional Marxism was helped also by his theory of capitalist imperialism. For from this point of view it was possible to argue that the chances of a revolution in any single country depended upon the international situation as well as upon its internal condition. The strain of war might well break capitalism "at its weakest point," and this need not be in those countries where capitalism itself is most highly developed. Probably, however, what carried conviction among Lenin's Russian followers in 1917 was their belief that proletarian revolution was imminent throughout Europe and that the revolution in Russia was merely a 'prologue.' In 1924 Trotsky and his followers still held that a proletarian revolution could not permanently succeed or be carried through completely in a single country, though by that time the continued existence of the revolutionary government had made this view a 'deviation.' In 1925 Stalin argued that the limitation on communism in one country was merely the risk of interference from the outside. In effect this leaves little or nothing of the older idea that societies pass through a normal series of industrial stages and that their political history and ideology follow their economic development. Thus Stalin has argued that a proletarian revolution differs from a bourgeois revolution partly by the fact that the former brings a socialist economy into existence, while a capitalist economy precedes the latter, and Bukharin has argued that in periods of revolution the course of development goes from ideology to technology, thus reversing the normal order.[3] The older theory remains, if at all, only as applied to the whole international development of capitalism and the revolutionary ideology.

The relation of socialism to political democracy forms a special phase of this general question about the preparation of the proletarian

[1] *Collected Works*, Vol. XVIII, pp. 81 f.; 198. [2] *Ibid.*, Vol. XX, Book I, pp. 85 f.
[3] Stalin, *Leninism*, Eng. trans. by E. and C. Paul (London, 1928), p. 20; Bukharin, *Historical Materialism* (New York, 1925), p. 262.

revolution, and here, too, there was a substantial difference between Lenin and Marx, or at least what other Marxists supposed that Marx meant. When Lenin returned to Russia he was the leader of a minority even among the socialists, who were themselves a minority in the bourgeois government. In Russia at large the industrial proletariat was of course a tiny minority in the whole population, and Lenin never doubted that success would fall to the party that could gain the support, or at least the acquiescence, of the peasants. He made no secret of his opposition to the Provisional Government, but until July he did not favour armed resistance to it. He repeatedly denied that his group was for seizure of power by a minority or for economic reforms not ripe "in the consciousness of an overwhelming majority." But such phrases have to be taken in the light of his theory of the party, held since 1903, which contained no implication of majority-rule as a political institution. In August he came out flatly with the assertion that in politics majority-rule is a "constitutional illusion." The permanent force is the domination of a class; majority-rule is impossible unless the interests of the ruling class happen to coincide with the interests of the majority, and history is full of cases where the more organized, more class-conscious, better armed minority has forced its will upon a majority.

> At the decisive moment and in the decisive place you *must prove the stronger one*, you must *be victorious*.[1]

Even in the evolution that leads up to decisive moments, majority-rule had for Lenin no virtue as a political right. It was rather a scheme of skilful compromise by which the leading minority keeps in touch with its followers.

> The task of a truly revolutionary party is not to declare the impossible renunciation of all compromises, but to be able *through all compromises*, as far as they are unavoidable, to remain true to its principles, to its class, to its revolutionary task.[2]

This was, in fact, Lenin's most astonishing and most valuable quality as a leader, and he referred to his compromises on occasion as "democracy," but obviously they had no relation to democracy as an institution.[3] The truth is that democracy had no significant place in Lenin's conception of political evolution. On the other hand, most Marxists would have agreed that Kautsky accurately represented Marx's opinion when he said, in criticism of the Russian Revolution, that "the

[1] *Collected Works*, Vol. XXI, Bk. I, p. 68. Lenin's italics.

[2] *Ibid.*, Vol. XXI, Bk. I, p. 152.

[3] A striking example was Lenin's adoption in November, 1917, of a land-policy which he took whole from his opponents and which he fully expected to fail. For the time being he was powerless to do anything else, so he made a virtue of "democracy." The later coercion of the peasants was perfectly logical from his point of view. See W. H. Chamberlain, *The Russian Revolution*, Vol. I, p. 326.

education of the masses, as well as of their leaders, in democracy is a necessary condition of socialism."

THE DICTATORSHIP OF THE PROLETARIAT

Lenin brought together his theory of the dictatorship of the proletariat in the pamphlet *State and Revolution*,[1] the writing of which was interrupted by the Revolution at the end of October. Considering the public to which it was addressed and their habitual modes of thought, it was probably one of the most persuasive political tracts ever written. In form it was merely an examination, in chronological order, of all the passages in Marx and Engels dealing with the state, but it follows, in fact, a pretty rigid rule of construction, and in this consists its art. Marx and Engels apparently tell their own story, and out of the simple chronological arrangement there emerges a dialectical necessity. Their thought develops; it comes to grips with a problem; it triumphantly reaches a solution. Marxism is displayed as a growing theory of revolutionary tactics; the seizure of power by the proletariat, the failure of the first fumbling efforts in '48, the lesson that the capitalist bureaucracy must not be captured but destroyed, the first confused crystallization of true proletarian institutions in the Paris Commune of 1871 and their discovery by the incomparable insight of Marx, the painstaking elaboration of Marx's insights by Engels, the next step in proletarian government in the soviets of 1905, and of course its triumphant completion in 1917. As history this was highly imaginative, and even as exposition of Marx, though accurate in what it included, it selected what suited its purpose. But for anyone habituated to dialectical argument and convinced of the necessity of communism it was in the last degree persuasive.

Like all Lenin's writings, *State and Revolution* is filled with scorn for the perversions that opportunism have introduced into true Marxism. The famous sentence in which Engels had said that the state "withers away" has been the subject of such a perversion by being distorted into a defence of evolution against revolution. A true reading of Engels shows that it is not the bourgeois state that withers away but the proletarian dictatorship. The bourgeois state must be seized by a revolutionary uprising of the proletariat, which thus establishes its own dictatorship, destroys the old bureaucracy, and produces new agencies of government appropriate to proletarian rule. The destruction of the capitalist state is not gradual but revolutionary, and what the revolution establishes is not socialism or democracy but a transitional state, the dictatorship of the proletariat, in which all the powers of the state are used to dispossess and hold down the old exploiting class. In it the party, the fully class-conscious minority who are the natural

[1] *Collected Works*, Vol. XXI, Bk. II, pp. 147 ff. First published in 1918.

leaders of the whole working class and the guides and teachers of all the exploited but non-proletarian classes, directs and organizes the new social order. It is this dictatorship which is to wither away, as the purposes of the revolution are gradually accomplished. Ultimately it is to end in a completely classless society, in which the absence of all exploitation and perfected education will have rendered any form of state unnecessary. The dictatorship of the proletariat, however, is a state; its essence is force, and no state is either free or popular. It is true that Lenin calls it "complete democracy," to be developed through the soviets, but democracy does not exclude an iron discipline for the whole population, in so far as the interests of the revolution require it. Writing a few years later, during the struggle against the White Armies, Trotsky said,

> No organization except the army has ever controlled man with such severe compulsion as does the state organization of the working class in the most difficult period of transition.[1]

Lenin's pamphlet pictured the Paris Commune of 1871 as the first occasion in history when the organ of suppression was really a majority and as providing the embryonic beginning of a true workers' democracy. Marx had successfully analysed these beginnings in his *Civil War in France*. The Russian Revolutions of 1905 and 1917 "continued the work of the Commune and confirmed the historic analysis made by the genius of Marx." The purpose of this argument was to bring the soviets within the circle of Marxian theory and to connect the revolutions in Russia directly with what Marx and Engels had regarded as the beginning of proletarian revolution. In point of fact, the *Civil War in France* was an able defence of the Commune against the current vilification of it, but the account of its supposedly positive additions to government was vague in the extreme. The communes are representative but not parliamentary; they are working assemblies and not talking shops; they stand for voluntary centralism but not federalism. Officials are reduced to the status of moderately paid clerks and technical experts are to be hired at workers' wages. It does not appear that when he wrote Lenin had a more precise conception of the forms of proletarian government or of the institutions needed to solve the problems which the Revolution would meet in the following years. These problems were indeed met, often with astonishing success and always with iron determination, but by a method of trial and error that owed little to any theory of political organization. What was constant was not a theory but an end, the ideal of a collectivist society managed in the interests of the masses by a disciplined minority absolutely devoted to its mission.

The dictatorship of the proletariat, according to Lenin's theory, is

[1] *Dictatorship vs. Democracy*, New York, 1922, p. 170; a reply to Kautsky's *Terrorism and Communism*.

not communism; it is the period of transition in which the state is withering away. Only in this future, classless society can one speak of freedom, when long habituation to a planned social life and the absence of any exploiting class have removed the need for any apparatus of suppression. Such a society can come into existence only by a long process of education and by stages. As a first approximation Lenin proposed an equal distribution of consumption-goods after the planning body has deducted from the total production the capital-goods needed for replacements and betterments. This equality he regarded as chiefly an artificial device to avoid exploitation; the abandonment of equal pay in the interests of production was not contrary to Marxian theory. Beyond this first stage Lenin pictured a highest stage of true communism realizing measurably the ideal, "From each according to his ability; to each according to his needs." This end, he conceded, may never be reached and certainly it cannot now be definitely imagined. It depends upon the unforeseeable consequences, to human nature and to industry, of an immeasurably expanded production and the ultimate abolition of the distinction between workers with the hand and workers with the brain. In the meantime "the socialists demand the *strictest* control, *by society and by the state*, of the quantity of labour and the quantity of consumption." Lenin like Marx retained the moral propulsion of a utopian ideal but he did not confuse the ideal with the attainable.

Lenin's Marxism presents the anomaly of being at once the most dogmatic assertion of orthodox adherence to the principles of the master and at the same time the freest rendering of it on points where circumstances required its modification. For him Marxism was at once the creed of a party, having the function of all creeds that give unity to a militant organization, and also a guide to action, to be shaped at need to new occasions. Yet the creed itself stood in the way of frankly empirical revision or the abandonment of parts in the light of new facts; if it were revised it must develop its own changes dialectically. The revisions which Lenin made were sometimes perilously close to abandonment. Retaining the strictest letter of economic determinism, according to which politics and every form of ideology must be explained ultimately by the economic system, he magnified both the rôle of the party and of the middle-class intellectual in the party, while he minimized the spontaneous creation of a socialist ideology in the proletariat by the relations of production. He abandoned the belief that capitalist development in any single country, with its attendant political manifestations, runs through a normal or standard series of stages, so that, as Marx had said, "A country in which industrial development is more advanced than in others, simply presents those others with a picture of their own future." Much of the plausibility of the contention that this was merely an extension of

Marxism depended on the expectation that the proletarian revolution was about to become general, and this proved to be a mistake. In the future the theory can again be made to square with any state of the facts by adding more stages to the development of capitalism. What Lenin's career illustrated most obviously was not precision of theory but the enormous power in a crisis of a leader with character and insight, aided by even a small group of self-confident and disciplined men who are willing relentlessly to follow their convictions. This surely is a result which no logic can deduce from dialectical materialism unless, indeed, it be the logic of faith.

THE TEMPER OF COMMUNISM

In fact, the philosophy of Marx, and of Lenin and the communists, is a faith in respect to its driving power as a self-conscious social force. This is in no sense to depreciate its intellectual factors, which have had great importance in social studies. For this reason an account of its abstract principles is far from giving a complete picture of it, for it omits its inward feeling and spirit. The philosophy as such does not account for the intense, indeed, the evangelical fervour of the movement—the sense of having a doctrine that is true beyond the peradventure of a doubt, the feeling that this doctrine affords a unique insight into the true nature of society past and present, and the belief that it makes clear the line that one must take for the present and the future. Beyond everything else, perhaps, is the conviction, which another age would have expressed in the language of religion, that one is the organ of a cause that cannot fail, that the issue is not really in doubt, and that even present failure portends future victory. It was the unique gift of Hegel to convert this sentiment—in the seventeenth century peculiarly the moral property of Calvinism—from the uses of individual liberty to those of collectivism (whether national or social), and to rebaptize it with the name of logic for an age that no longer believed in God. What actuates the Marxist is in essence a profound consciousness of moral rectitude and earnestness. At the very lowest level this provides a moral justification for personal hatred; at a higher level it affords a principle for the detestation of wrong, injustice, and exploitation; at the highest level it opens up the vision of a society intelligently planned and directed to provide more both of material and intellectual goods for the masses of mankind. It is this consciousness of a vocation that makes the communist a militant partisan, ready to sacrifice himself and others to his cause; at the worst a casuist and a fanatic, at the best a hero and a martyr.

Pride of membership is an almost necessary ingredient of human self-esteem and vigour. The consciousness of social worth in an aristocrat, or of solidity in the bourgeois business man, or of professional

standing in a lawyer or doctor is no greater than the pride of the self-conscious proletarian in his class. His philosophy is a protest and assurance against the tendency of industrialism to take away the worker's pride in his craft and the sense of its social utility. As the democrats did in their time, he has converted a term of reproach into a badge of honour; the proletariat—the class in which the contemptuous Roman bourgeois saw only 'breeders'—is to be the keeper of the future well-being of society and its civilization. It is this sense of worth that gives the self-conscious proletarian his contempt for what he calls the slum-proletariat—the declassed, from whom are recruited the strike-breakers, the labour-spies, the mercenary army of capitalism, and the raw material of fascism, a constant menace to effective mass-action. The same sense of worth and moral seriousness sets him off no less, in his own estimation, from the prosperous classes whom, as he believes, the evolution of absentee ownership turns into social parasites, with no serious occupation except wasteful consumption accompanied by moral degeneracy and cultural decadence. Between these extremes stands the wholesome working class and in its vanguard the class-conscious Marxist, a self-confessed intellectual aristocrat, the member of an *élite*, a man with an insight and a mission. Believing, as his philosophy requires him to do, that the effective units of social growth are classes, he thinks of himself as an outgrowth, almost an organ, of his class, and of the class itself as something that has a living structure and that adapts itself to a never-ending struggle for social power. He sees himself lifted out of insignificance by the destiny of the working class.

As a pattern of emotional response providing the cue to vigorous action, all this is far less different from the state of mind of the democratic radical of a century ago than the Marxist usually believes. The democrat, like the communist, was actuated by the conviction that he and his kind were exploited for the benefit of another class. For the democrat the tyrants were kings and hereditary aristocrats, and he saw in political equality and democratic reform the panacea for social injustice. The radical worker knows by his own experience, more keenly than middle-class folk ever can, the extent to which industrial organization carries with it the domination of employers over the employed, and for this he knows that political equality by itself contains no remedy. He resents the diversion of productive power to profit-making as the democrat resented the subordination of political power to dynastic ambition. He is impatient of palliatives because he sees no hope except in a radical change of the system itself, as the democrat believed that only the root-and-branch extermination of kings could restore politics. In the systems that they attack both see grotesque inequalities of opportunity unjustified by any reasonable social benefit, and a small minority of the overprivileged carried on the

backs of the toiling masses who have only the narrowest range of comfort, security, and enjoyment. The democratic radical, like the modern proletarian, was supported by a sense of moral worthiness and social justification. The bourgeois believed intensely that the social utility of his trade far surpassed that of the social amenities and political services of the aristocrat, and he contrasted his own industry with aristocratic idleness, soberness with frivolity, and solid worth with parasitism. The idle rich are the modern analogue of the idle aristocrat. The modern Marxist is perhaps more careful than Marx to allow for the social utility of the management which in theory the capitalist ought to provide, but he points out that ownership and management stand in no necessary relation. He believes that a more responsible management can be supplied from the ranks of the workers, just as the bourgeois democrat believed that he could govern better than the aristocrat who was born to a political career. Finally, he claims scientific validity for his version of social evolution for the same practical reasons that made the democrat assert that 'reason' was indubitably on the side of liberty and equality.

Such a state of mind, whether in the democrat or the communist, evidently contains much which goes definitely beyond what can be proved to be possible and in particular it includes an element of moral aspiration that cannot be proved at all. It is compounded of what men see, but still more of what they look forward to. In part it is "the substance of things hoped for, the evidence of things not seen." The communist aspiration grows from the discontent, the feeling of frustration and oppression, bred in one class of a modern industrial population when it contemplates its lot in comparison with that of other classes and more especially in comparison with what it believes to be possible for all classes. It rises to a sincere, even a fanatical moral enthusiasm, with all the idealism, the driving power, and likewise the ruthlessness, of which moral enthusiasm is capable.

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CHAPTER XXXIV

FASCISM

THE political philosophy of communism was developed through three generations of Marxian scholarship; it was adapted to a multitude of situations and brought to a high degree of coherence by discussion in the socialist parties of all countries. In Russia it was a creed professed by the communist party for years before the opportunity arrived to give it effect, and the creed was believed to prefigure at every step the revolution that was finally carried out. By comparison the fascist parties, whether in Italy or Germany, have had no coherent social or political philosophy. What has passed as fascist philosophy is vague, often studiously so; it is a body of ideas taken from various sources and put together to fit the exigencies of circumstances. It is unrefined by discussion, frequently hysterical in tone and sometimes intentionally so, and largely indifferent to incompatibilities. Its elements had for the most part been long in existence. These elements were submitted to new constructions and were recombined in new and sometimes incongruous ways.

Both in Italy and in Germany the reasons for these qualities of fascist philosophy were implicit in the movement itself. The construction of the fascist parties in their early stages required the holding together of discordant groups which were united less by common purposes than by common hatreds and fears. Peasants and large landowners, small shopkeepers and large industrialists, salaried employees and wage-earners were precariously united by promises and generalities which could only have been made explicit at the cost of repelling some part of the miscellaneous entourage that fascists desired to attract. In Italy the stand of the practical man, of the empiricist without dogmas, which was characteristic of Mussolini's early utterances, was highly serviceable when a clear statement of principles would have alienated some part of a very miscellaneous following. "Action not talk" and "There is no need for dogma, discipline suffices" were pragmatically sound maxims. In Germany the intellectual quality of fascist leadership made a significant fascist philosophy in any case improbable. So far as the National Socialist Party was concerned, dogmatism accomplished the same result as pragmatism in Italy. In 1926 the twenty-five articles of the Party[1] were declared

[1] Printed in *Foreign Policy Reports*, Vol. IX, No. 10; also in Calvin B. Hoover, *Germany Enters the Third Reich* (1933), Appendix, p. 229.

to be unalterable; consequently there was no use in discussing them.

A FORM OF POLITICAL IDEALISM

Especially in Italy fascist political philosophy was largely an afterthought, the result of a desire to explain and justify what had already been done. The form that it must take was predetermined by the nature of its enemies. Since its chief opponents, the Marxists, were self-proclaimed materialists, fascism had to stand for an exalted form of political idealism. Since the Marxists held all forms of politics to be a reflection of economic relations, fascism regarded the state as the leader and director of the industrial system. And since the Marxists regarded the antagonism of economic classes as a permanent and inescapable factor in a capitalist society, fascism had to assert the conciliation of class-interests in the organic totality of nation and state. The secondary enemy, political liberalism and the defence of individual freedom, could have equally well been met by the same type of national idealism. To equate freedom with caprice, to condemn both as egoism, and to represent the pursuit of happiness as a mean desire for selfish advantages have been stock arguments with idealist hero-worshippers since the days of Thomas Carlyle.

These were the well-beaten trails that Mussolini elected to follow when, in 1932 after the exigencies of the struggle for power were past, he decided to give to fascism its confession of faith.[1]

> Fascism, now and always, believes in holiness and in heroism; that is to say, in actions influenced by no economic motive, direct or indirect. And if the economic conception of history be denied, according to which theory men are no more than puppets, carried to and fro by the waves of chance while the real directing forces are quite out of their control, it follows that the existence of an unchangeable and unchanging class-war is also denied —the natural progeny of the economic conception of history. And above all fascism denies that class-war can be the preponderant force in the transf formation of society. . . . Fascism denies the materialist conception o-happiness as a possibility, and abandons it to its inventors, the economists of the first half of the nineteenth century: that is to say, fascism denies the validity of the equation, well-being, happiness, which would reduce men to the level of animals, caring for one thing only—to be fat and well fed—and would thus degrade humanity to a purely physical existence.[2]

Fascism was, then, an ethical idealism which preserved the usual paradoxes of that kind of moral philosophy. It alternately exalts and debases human nature, ascribing the crassest egoism and materialism

[1] In the *Enciclopedia Italiana*, Vol. XIV, reprinted under the title *La dottrina del fascismo* (Milan 1933). The article is in two parts, a statement of general principles, which is translated with a running commentary by Herman Finer in *Mussolini's Italy* (London, 1935), and a less abstract set of observations on political and social theory which has been translated by Jane Soames in *The Political Quarterly* (Vol. IV) (1933), p. 341; reprinted in *International Conciliation*, No. 306.

[2] Eng. trans. by Jane Soames, *loc. cit.*, pp. 346 f.

to man's natural inclinations and the loftiest aspirations to his holy will. It is even more than idealism; it is a religion.

> Fascism is a religious conception in which man is seen in immanent relation to a higher law, an objective Will, that transcends the particular individual and raises him to conscious membership in a spiritual society.[1]

Similarly Alfred Rosenberg finds the religious roots of national socialism in the German mysticism of the Middle Ages, especially in Meister Eckhart.[2] As Mussolini said, man is a 'spiritual' being; he knows the moral law, which opens to him a life above and beyond the limitations of time and space; he is capable of heroism, self-sacrifice, and ends beyond the low desire for happiness and material comfort. In place of happiness fascism puts duty, for freedom it puts authority and discipline, for equality hierarchy, for numbers quality. In the same way a nation rises by the spiritual power of will above the limitations of its environment and its economic resources. It is strong by virtue of what Hitler calls its "more savage will-power" or by what Mussolini calls more euphemistically the will to conquer what is really worthy of it, creating its physical, moral, and intellectual instruments. An idealism of this sort is the obvious appeal to a population faced with a permanently lower standard of living. It has the advantage also of making rational criticism impossible and scepticism impious.

ECONOMIC FACTORS

Though fascism preferred to pitch its descriptions of itself in a high moral key and claimed to pursue ends unsullied by economic motives, observers from the outside found both its purposes and its origin to be not less susceptible of economic explanation than those of other political movements. At least, upon a number of important points there appears to be substantial agreement. In the first place, the manpower of fascism, both in Italy and in Germany, was provided largely by the lower middle class—salaried employees, small shopkeepers, and farmers, who felt the pinch of post-war inflation and business-depression most severely. This class everywhere, and doubly in countries with narrow resources and large populations, found itself precariously balanced between organized labour on one side and large-scale business on the other and comparatively defenceless against both. Both in Italy and in Germany it was doubtful whether the threat of communism was really serious, but the lower middle class was undoubtedly terrified at the prospect of being degraded (as it felt) to the level of the proletariat, and this fear was sedulously fostered by fascist tactics. These tactics were especially effective when practised upon a large body of young men to whom circumstances closed any normal channels of econ-

[1] The *Enciclopedia* article, Part I, sect. 5.
[2] *Der Mythus des 20. Jahrhunderts* (1930), ch. iii.

omic opportunity. In the second place, it is apparently true, though documentary evidence is naturally hard to come by, that financial support for fascism came largely from the larger industrialists who did not, it is true, favour fascist revolution for its own sake, but were ready to help along the demoralization of the independent labour unions. Finally, though fascism made no strong appeal to industrial workers, it followed the policy, not without some success, of penetrating their organizations and enticing away their membership. In the case of all classes these economic considerations would probably have been too weak had they not been aided by the psychological aftermath of the World War, which again was skilfully played upon by fascist leadership. In Italy this was particularly the feeling that Italy had "won the war but lost the peace"; in Germany it was the sense of humiliation produced by the Versailles Treaty and the feeling of insecurity caused by lack of armament.

The social policies likely to be followed by governments produced under such economic auspices had been subject to much speculation. However thoroughgoing its regulation of national economy, no fascist government made any effort to effect a radical redistribution of national income. It appears to be true that large-scale business, both in agriculture and industry, gained more from fascist regulation than either small-scale business or labour. Nevertheless, oversimplified economic interpretations of fascism, which represented the fascist parties and leadership as mere puppets of big business, were certainly false. Their power over industry was real. The fascist doctrine that national interests must predominate over the interests of individuals and classes was elastic enough to cover any revision of property-rights. The socialist and syndicalist (not Marxian) antecedents of Mussolini made it improbable that he had any reverence for property as such. In 1933 he asserted that "the method of capitalistic production is superseded" and that the Corporations (then about to be set up) must be "noticed directly by the masses as instruments through which they improve their standard of life."[1] Hitler was never a socialist, and the influence of the socialist elements which existed in the National Socialist Party declined apparently to the vanishing point. What can be said with the most confidence is that the policy of a fascist government would be controlled by an overwhelming desire to increase its military power. As Mussolini said, "Political power creates wealth," or as Hitler said, "The German plough follows the German sword." It is conceivable that this way of creating wealth might in the end imply its redistribution, but the result would be incidental and on the whole not very probable.

[1] Finer, *op. cit.*, p. 501.

HEGELIAN NATIONALISM

The circumstances under which fascism arose required that it should take the form of an idealization of the nation opposed alike to Marxism and liberalism. In the political philosophy of the nineteenth century the nationalist and in general anti-liberal idealism of Hegel was already at hand, now widely dispersed and relatively free from any technical philosophical context. Without this, or at least without elements drawn from it, any form of political idealism would now be unthinkable. But fascism was also a movement of revolution, or perhaps more truly of counter-revolution, and such possibilities as Hegelianism had as a philosophy of revolution were already exploited by Marxism. In making a national philosophy for countries lacking easy access to rich economic resources fascism almost of necessity glorified the power of the national will to create the means needed for its own ends. Such an emphasis upon the national will could have easily joined hands with a similar emphasis upon the revolutionary will of the party and its leaders. Alongside Hegelianism and contemporaneous with it there was a non-rationalist or anti-intellectualist philosophical tradition which gave first place to will, or sometimes to intuition, as a source of conviction, which glorified power, self-assertiveness, the incalculable genius, or even sheer force. This philosophical tradition also fascism drew upon. This latter philosophy, though in no sense novel, had had few political applications, though it was obviously anti-democratic and had sometimes figured in the ideology of revolt. Thus fascism strove, somewhat paradoxically, to unite a philosophy with a bias towards conservatism and one that glorified revolutionary violence, an ethics that regarded conformity as a chief virtue, and one that saw 'sacred egoism' as the highest form of character. The combination is perhaps not so incongruous as it seems for a movement that was in essence a reactionary counter-revolution.

The philosophy of Hegel had flourished in Italy for years before fascism was thought of, its most distinguished representatives being Benedetto Croce and his pupil, Giovanni Gentile. The teacher has refused to accept fascism but the pupil became one of its chief philosopcaihl defenders. Among the nationalists of long standing has Alfredo Rocco, not technically an Hegelian but with a political philosophy not very different.[1] The tradition of Hegel served two purposes. It brought to fascism the classical argument against liberal individualism and it offered a ready-made idealization of the national state.

[1] G. Gentile, *Che cosa è il fascismo* (Florence, 1925); extracts are translated in Herbert Schneider's *Making the Fascist State* (New York, 1928), Appendix, p. 344; "The Philosophic Basis of Fascism," *Foreign Affairs* (New York), Vol. VI (1928), p. 290. A. Rocco, *Dottrina politica del fascismo* (1925); translated by Dino Bignongiari in *International Conciliation*, No. 223; "La trasformazione dello stato," *Politica*, Vol. XXVI (1926); extracts translated in Schneider, *op. cit.*, p. 327.

Rocco has professed to find in this an intellectual upheaval comparable with the French Revolution, but all the arguments have been commonplaces for close upon a century; indeed, they had been fully taken into account by more recent theorists of liberalism. In its most general form, the argument stresses the obvious fact that man is a 'social' being and that in consequence any human good, including freedom itself, must be social, and any individual right must be a right within society and not against society. The point of the argument, however, is not in its substance but in its development; its almost systematic use of double meanings has long since been explored. The argument depends essentially on equating society with the state and at need equating the latter with government, three terms popularly used with vague and overlapping meanings but referring to readily distinguishable facts. Because man attains his moral quality in society, and because the state is defined as the rational and ideal directing force in society, freedom becomes, by the familiar Hegelian transference of meanings, the laying aside of the individual's illusory and capricious will to find his true self in the service of the state.

> Always the maximum of liberty coincides with the maximum force of the state. . . . Every force is a moral force, for it is always an expression of will; and whatever be the argument used—preaching or black-jacking—its efficacy can be none other than its ability finally to receive the inner support of a man and to persuade him to agree to it.[1]

Circumlocutions apart, liberty is simply bowing to greater force, and if the force succeeds in tearing down one government and setting up another, as fascism did, it was "the vindicating force of a state whose constitutional powers were renounced and denied by its own central organs." Every force is a moral force, after it succeeds. The line between idealism and cynicism is very thin.

This idealization of the state was used in the interest of nationalism, at first as part of the Hegelian political tradition, though it soon became detached from any technical Hegelian philosophy. In one form or another it appeared in all countries that had expansionist aspirations and the possibility of military power to realize them. It is perhaps most familiar in its German form, such as the *Politics* of Treitschke, where the state is identified with power and power is moralized by the assumption that it is the conidtion of upholding and spreading a national culture. In France extreme nationalists like the monarchists Maurras and Barrès argued to much the same effect, though with a less systematic social philosophy to base the argument on. Long before Mussolini had any place in Italian politics there was a well-organized nationalist group which came over bodily to fascism in 1923. Everywhere nationalists tended to be anti-liberal and anti-parliamentarian—in strong contrast with the nationalists of the period immediately after the French Revolu-

[1] Gentile in Schneider, *op. cit.*, p. 347.

tion—on the ground that representative institutions and popular government were incompatible with a strong national policy. Everywhere they tended to be militarist and to glorify the alleged spiritual values of discipline and the other warlike virtues. Everywhere, though they might have no real knowledge of Hegel, they availed themselves of Hegelian arguments against the political values of liberty and equality. In general the fascists merely adopted this tradition, exaggerated its idealization of war, and still further mystified the idea of the nation and the state, which is given the credit for all the ideal and cultural values which nationality includes.

While certain Italian fascists, especially Gentile, found Hegelianism the philosophy readiest to hand for their purpose, it was on the whole a source of doubtful value. It was serviceable in so far as the enemy was mainly individualism, liberalism, and parliamentarism, but there was more than a little danger in using Hegel to refute Marx. No sound reason had been given even by Hegel himself for his presumption that the nation is pre-eminent over all other social groupings in its moral value or in its importance for the growth of civilization. The importance that Hegelianism attached to society as compared with the individual is logically compatible with the selection of any one of a dozen groups to put in first place. Moreover, in important respects fascism was not Hegelian. It had a predilection for the heroic, for what Rocco has called "the intuitiveness of rare great minds," which is radically inconsistent with the belief in historical necessity. The inherent logic of history was a central principle for both Hegel and Marx, and it had caused both men to put a low value on the voluntary efforts even of great men. Before fascism existed Gentile's Hegelianism was crossed with a strain of voluntarism, derived perhaps from Bergson's creative evolution, which caused him to identify reality with process and intelligence with action.[1]

PHILOSOPHIC IRRATIONALISM

Accordingly, fascism drew even more heavily upon the second element mentioned above in the philosophical tradition of the nineteenth century, the irrationalism which began with the romantic revolt and which produced, in Schopenhauer, Nietzsche, and Bergson, at least three figures of first-rate importance. This philosophy took a multitude of forms, but they all agreed in denying the persistent faith in reason that had been the common assumption of even the most diverse schools of earlier modern thought. For it the roots of conviction lay in some non-rational experience: in mystical intuition, in the drive of will, in the instinctive urge of vital forces, while the patient weighing of evidence and the systematic search for fact are plodding virtues

[1] *The Theory of Mind as Pure Act* (1916). Eng. trans. by Wildon Carr (London, 1922).

beneath the dignity of the genius or the saint. Thus Schopenhauer saw behind nature and life the struggle of a blind force which he called "will," an endless striving which builds up and tears down equally without purpose, a restless, meaningless effort that desires all things and is satisfied by nothing, that creates and destroys but never attains. In this swirl of irrational force only the human mind builds up a little island of apparent order in which the illusion of reasonableness and purpose has a precarious footing. The moral intuition behind Schopenhauer's philosophy was an ancient one, the vanity of human wishes, the littleness of human effort, and the hopelessness of human life. In particular it was rooted in contempt for the little values and virtues of the bourgeois and the philistine, the smugness, self-satisfaction, and complacency of the undistinguished and the vulgar, who imagine that they have bound leviathan and built a wall against the incomprehensible forces of life and reality. This purblind spiritual pride Schopenhauer unjustly saw embodied in his rival Hegel. Against the Hegelian logic of history he set up the cult of the genius; against the faith in progress he set the hope of extinction; against the growth of a national culture he set the individual achievement of the artist and the saint in perceiving the illusion of life and will, to be accomplished through religious asceticism or the selfless contemplation of beauty. As for the morality of everyday life, Schopenhauer found its roots in pity for the inevitable suffering of human beings bound by the illusion that satisfaction is attainable.

Schopenhauer's pessimism was, therefore, an intellectual affirmation of the irrational, crossed by a moral and aesthetic aspiration for its negation. But if life and nature are truly unreasonable, why not affirm the irrational morally as well as intellectually? Why not accept, and accept joyfully, the fact that achievement is meaningless and find value in the struggle itself, even in its very hopelessness? Substantially, this was the change that Nietzsche made in the philosophy of pessimism. In his negative estimation of values he agreed essentially with Schopenhauer—in his contempt for the commonplace, the smug, the hypocritical, the comfortable—but in place of the saint he put the hero, and in place of renunciation he put the affirmation of life. It is a life violent, disruptive, revolutionary, a life that must be accepted with the full consciousness that defeat is inevitable, but with a force of affirmation that is not defeatist, because the living itself, not its ulterior consequences, is the ultimate value. The hero is still the genius, the rare, creative spirit in whom creative force rises above the desire for happiness. It is false that men desire happiness, Nietzsche says; only Englishmen do that, an epigrammatic scoring of the utilitarian, the bourgeois, the matter-of-fact. This, as Nietzsche was forced to assert, is no philosophy for the masses, or rather, it assigns the masses to their proper place as beings of a lower order whose healthy instinct is to

follow their leader. Once this healthy instinct is corrupted, the masses create only a slave-morality, a fiction of humanity, pity, and self-abnegation, which in part reflects their own slavishness but which is more truly a subtle poison, the invention of servile cunning to weaken the power of the creators. For there is nothing that the common man so fears as the disruptive force of originality. The two great embodiments of this slave-morality in western civilization are democracy and Christianity. Nietzsche searched the vocabulary for terms of violence to describe his hero, his superman, the "Big Blond Beast," but it is doubtful if he really much admired brute force. His hero was more truly the creative artist. The glorification of strength was probably a compensation for ill-health and the agony of an unstable nervous constitution.

A more recent, and superficially a very different, phase of the philosophical attack on intelligence is to be found in the work of Henri Bergson. Unlike the aphoristic moralizing of Nietzsche, Bergson's irrationalism was a methodical use of reason to undermine reason. On the one hand it offered a critical analysis of scientific procedure designed to show that intelligence is itself a vital process, having an instrumental or pragmatic usefulness in the struggle for life and the manipulation of the physical environment. Not truth but utility is the motive behind science. In this criticism Bergson followed lines already laid down by pragmatists and by positivists who had stressed the fact that scientific method contains factors that can most easily be described as conventions or elements of convenience. But this was merely the negative part of his criticism. What he aimed primarily to do was to make analytic intellect the servant of the 'life-force,' in order to leave room for intuition, which alone can grasp synthetically its continuity, its organic wholeness, its nature as an endless becoming and change. His philosophy was a kind of romantic vitalism, not only in the biological sense but in the broader sense of seeing in reality itself an indefinable, unpredictable, super-rational creative force. It illustrates a current inclination to take romanticism in terms of biological rather than aesthetic categories.

Neither Schopenhauer, Nietzsche, nor Bergson made any very explicit application of irrationalism to politics. The movement on the whole, especially the influence of Schopenhauer and Nietzsche, was rather an artist's philosophy, viewed askance by academic philosophers, and neglected by political theorists, though Nietzsche became a kind of patron-saint for many of the younger Russian intellectuals in the Revolution of 1905. The most considerable work on social philosophy which attempted to make a political use of Bergson and Nietzsche was Sorel's *Reflexions on Violence*, which was mentioned in the preceding chapter. Through Sorel the idealizing of direct action and a belief in the creative power of the myth became part of the ideology of revolu-

tionary syndicalism in which Mussolini served his apprenticeship as a political agitator; for Sorel these were elements of a proletarian philosophy. Similar ideas perhaps not unconnected with Nietzsche were given academic currency by Pareto, who also is asserted on rather flimsy grounds to have transmitted them to Mussolini. These were the social influence of the myth, the inevitableness of government by a select minority, and the rhythm of history whereby this governing class becomes effete and is violently displaced by the young, the virile, and the ruthless candidates for power. Taking the tradition as a whole, its most distinguishing social bias was its contempt for bourgeois virtues and ideals. There is not a little grim humour in its capture by a bourgeois nationalist counter-revolution. It would be interesting to have from Nietzsche, who thought France the only civilized nation in Europe and who took pride in being a "good European," a few comments on the heroes of National Socialism.

PHILOSOPHY A MYTH

A fascist philosophy, then, undertook to weave together these two strands of thought, the tradition of Hegel in so far as it was nationalist and taught self-abnegation before the requirement of expanding national power, the tradition of Nietzsche and Sorel in so far as it taught the revolutionary right of the strong, the *élite*, the "rare great minds," who alone were fit to direct the destinies of a nation and to dispose of the lives of its masses. Thus fascist writers can praise custom and history and at the same time revolution and violence, the one as the conservative, the other as the creative factor in society. The one was the virtue of the follower, the herd-instinct of the healthy race that makes it close its ranks against the common enemy; the other was the virtue of the leader who alone had the insight and the creative force to will and construct the new. Fascism, Mussolini said, was an historical conception, hence the great value of custom and tradition. Outside of history man is nothing. But history is also "a panorama of hierarchies," in which one ruling caste conquers and supersedes another. It followed that a fascist philosophy was essentially a myth, in Sorel's sense of the word. It was above reason, for it was the creation of intuition or of the will to power. It was a vision of the future and yet not a plan, for it need not have been capable of fulfilment. Its primary value was that it released men's energies for the present.

> We have created our myth. The myth is a faith, it is passion. It is not necessary that it shall be a reality. It is a reality by the fact that it is a goad, a hope, a faith, that it is courage. Our myth is the nation, our myth is the greatness of the nation![1]

[1] Mussolini in a speech at Naples, 1922. Quoted by Finer, *op. cit.*, p. 218.

In the same vein Hitler says that a philosophy is intolerant like a religion; it demands exclusive and complete acceptance; it proclaims its infallibility and fights its opponents with any means available. It needs an organization with small, intelligent leadership served by a large, sentimental mass.[1] The virtue of an 'idea' is to conquer pity and steel the will for battle. A party which lacks such an idea will find its power to fight diminished, because it will not go to the most extreme lengths in enforcing its will. A fanatical belief in its mission and in the necessity of its success is all that enables a party or a nation to justify itself in using "the most brutal weapons."[2] A philosophy is less an intellectual aid to understanding or explanation than an emotional agency for strengthening the will or even for suppressing the moral and humanitarian scruples that normally inhibit men in their dealings with one another.

For fascist purposes, therefore, Sorel's somewhat feeble myth of the general strike, which he proposed for the proletariat, must be supplanted by one written into the history of the nation and grafted upon a cherished national tradition in order to make the strongest emotional appeal. Among Italian writers the myth preferred has usually been that of national continuity with the Roman empire, or sometimes with the period of national unification. Thus Rocco[3] has suggested a rewriting of history which shall represent the French Revolution and democracy as the culminating stage of a process of decadence and anarchy beginning with the fall of Rome and continuing through the particularism and divisions of the Middle Ages. The liberal doctrine of individual rights was the last step in setting aside the Roman idea of the right and authority of the state. This decay of Roman virtue was of a piece with the influx of Germanic peoples that broke the empire, the consequence of 'Germanic individualism.' Liberalism is foreign to the 'Latin mind.' Hence the philosophy of natural rights attracted few Italian scholars, for Italy clung, even through the dark centuries of national dissolution, to its legacy from the past. By this ingenious hypothesis Rocco is able to perform some extraordinary feats of interpretation upon great Italians like St Thomas and Mazzini, and upon the relationship between nationalism and liberalism in the middle of the nineteenth century. But the conclusion is clear: fascism is a strictly Italian phenomenon and its purpose is "to restore Italian thought in the sphere of political doctrine to its own traditions, which are the traditions of Rome."

Naturally enough, the Roman myth could not gain currency in Germany but Germany was quite able to produce its own. Of a piece with the fascist historical myths, though not produced for the purpose, was Oswald Spengler's reading of history as the struggle between

[1] *Mein Kampf* (1935), pp. 512 ff.
[2] *Ibid.* (1935), pp. 596 f.
[3] "The Political Doctrine of Fascism," *International Conciliation*, No. 223.

"culture-areas."[1] These are rather mystical ideal entities—called sometimes "Europe" in contrast with "Asia," or sometimes the "white race" in contrast with all "coloured" races—standing for types of civilization. Russia counts with "Asia," so that it is the mission of Germany to be the European frontier. Intellectualism for Spengler is a "weed of the pavement," a degeneration due to industrialism and the urban proletariat, and to a debauching of strong instincts. The latter, the will for possession and power, has always been the real driving force in history. Remnants of such an instinct survive in the peasantry and aristocracy but the prominence now given to economics is a measure of present decadence. Justice, happiness, and peace are dreams; comfort is boring and senile; man is a beast of prey. Democracy and freedom rest upon an illusory faith in the reasonableness of human nature. Even national states gave place to a period of world-empire comparable to that in which Rome was formed. Spengler's "culture-areas" were over-tenuous to make a good myth, but the quality of his thought was the same. There was the facile generalization, the liberal use of vague but well-sounding terms, and the miscellaneous erudition that made the appeal of pseudo-science. Moreover, the content of his ideal culture was substantially fascist: Junker-industrialist aristocracy, a settled peasant economy, enough industry to provide the sinews of war, and the working class kept firmly in its place.

THE RACIAL MYTH

The prevalent myth of the German fascists is the myth of the Nordic or Aryan Race. In origin this long antedated fascism, since it was popularized by the Germanized Englishman Houston Stewart Chamberlain about the turn of the century and was derived by him largely from the Frenchman, Gobineau, who wrote in the 1850's.[2] The academic centre of dispersion for the myth was Jena, where Hans Günther was made Professor of Social Anthropology; its most elaborate philosophical statement is in Alfred Rosenberg's *Der Mythus der 20. Jahrhunderts* (1930). What the myth envisages is the reinterpretation of religion, morals, and art, indeed all branches of culture, and the rewriting of history, from the point of view of race. "Soul is race seen from within." The object was, of course, to produce an historical myth serviceable to consolidating the German nation and to strengthening its will to expand.

[1] *The Hour of Decision*. Eng. trans. by C. F. Atkinson (New York, 1934).

[2] Gobineau's book, published in Paris, 1853–55, was translated under the title, *The Inequality of Human Races*, by Adrian Collins (London, 1915). Chamberlain's book, published in 1899, was translated as *The Foundations of the Nineteenth Century*, by John Lees (New York, 1910). Other writers, American and English, had propagated the Nordic myth before the fascists, in books that purported to be part of the *bona fide* scientific literature on the relation of race to social characteristics; for references see F. W. Coker, *Recent Political Thought*, pp. 315 ff.

> The foibles of our heroes ought not to be glossed over, but the eternal, the mythical, behind them ought to be intuited and formulated by the questing soul. In this way there will arise a series of heroic spirits: Odin, Siegfried, Widukind, Frederick II (the Hohenstaufen), Eckehart, Von der Vogelweide, Luther, Frederick the Great, Bach, Goethe, Beethoven, Schopenhauer, Bismarck. . . . To serve this new evolution is the mission of the school in the coming German Reich. It is its most important if not its only task in the decades to come to make the new evaluation self-evident to all Germans.[1]

The hypothesis was that an Aryan race, spreading from some point of dispersion in the north, migrated to India, Persia, Greece, and Rome, and was the creator of all the valuable elements in the culture of each of these ancient peoples. More specifically the theory proposed to envisage modern European history as a struggle between the Aryan race, or the Aryan elements in the European nations, and the "racial chaos" in which the Roman empire ended. Essentially the struggle was between two opposed moral ideals, on the one hand the ideal of what was called love and humanity, embodied indifferently in Catholic Christianity, democracy, and Marxism; on the other the Germanic ideal of honour, character, independence, and responsibility.

> The paradox of democracy and Marxism lies in the fact that both represent the most brutal, honourless materialism, and purposely support all the tendencies that favour anarchy, while at the same time they boast of their humanity and love for the oppressed and exploited.[2]

Even Christianity owes whatever moral and religious value it has to the Nordics, though in Catholicism (and largely in Protestantism, too) these have been submerged by the ideas of Syrian and Jewish parasites. For a healthy Germanic religion one must go behind the Reformation to the German mysticism of the Middle Ages (Eckehart). Naturally the point of the theory was its implication for current politics. The Nordic element in France was largely destroyed by the religious wars; hence it succumbed to the democracy of the Revolution and is now, especially in the south, an outpost of Africa.

> Even apart from military and political considerations, a close alliance with France is equivalent to marrying a person stricken with the plague.[3]

Hitler also regarded France as becoming steadily more "negroid" or mulatto and as the agent, under the cunning prompting of international Jews, of a gigantic conspiracy to corrupt the white race in the centre of Europe.[4] The political deduction followed: a solid Germanic state in Central Europe including Scandinavia, an alliance with England, and expansion, "With sword and plough for honour and freedom," in Poland, the Danube Valley, and the Ukraine. There can be no doubt that this was Hitler's conception of the final objective of German foreign policy.

[1] P. 589. [2] P. 192. [3] P. 101. [4] *Mein Kampf*, p. 704.

From a scientific point of view this racial myth is beneath contempt: there never was an Aryan race; all European peoples are biologically mixed; and persons having the superficial characteristics called Nordic are a small minority of the German population. No reliable anthropologist would commit himself to the proposition that there is any clear criterion of racial superiority or any certain correlation of mental faculty with racial physical traits. The resemblances of moral ideals, of styles in art, or of philosophical and religious convictions on which Rosenberg posits identity of race are in the last degree fanciful. Unfortunately, scientific refutation, though often given, is almost irrelevant since the whole theory is avowedly a myth. Its reality was not important since it was 'true' merely because fascists willed it or apprehended it by some intuition that was beyond evidence. Thus the 'Latin mind' could perfectly well support fascism in Italy against Germanic individualism, while the Germanic race supported fascism in Germany against the negroid mixture of races in southern Europe. Both theories belong in the region of what Thorstein Veblen called "applied psychiatry," the art of fostering an emotional psychosis for an ulterior purpose. For similar reasons there is no point in looking for a rational explanation of the Jewish persecution in Germany, the most villainous by-product of the racial myth. The numbers, the intelligence, the prosperity of the Jews, and their competition with Gentiles had little or nothing to do with it. The Jews figured in a rôle that was necessary to the manipulations that the myth was intended to further.[1] There is no need to suppose that the applications of an irrational philosophy will be rational.

> The life of a race or a people is not a philosophy that is logically developed and consequently is not a process that grows according to natural laws; it is the construction of a mystical synthesis, or activity of soul, which cannot be explained by rational inferences or made comprehensible by exhibiting causes and effects. . . . In the last resort every philosophy that goes beyond formal, rational criticism is not so much knowledge as affirmation—a spiritual and racial affirmation, an affirmation of the values of character.[2]

Whatever form it takes, the myth of fascism, as Mussolini has said, is the power of the nation, or perhaps the power of the state, since the two terms are interchanged at will by fascists. Its motto is:

> Everything for the state; nothing against the state; nothing outside the state.

It is true that there is a slight, but not practically important, difference between the Italian and the German theories. Mussolini has said that

[1] See F. L. Schuman, *The Nazi Dictatorship* (1935), ch. viii.
[2] Rosenberg, *op. cit.*, pp. 114 f.

the state creates the nation, since the right of a nation to independence arises from its will to political power and not its cultural unity, while Hitler and Rosenberg have said that the state is merely the organ or agent of the nation. The difference is perhaps due partly to the fact that Italy had less cultural unity than Germany; partly to the fact that Hitler wrote before he had become 'the state,' but most of all to the fact that Mussolini's policy looked towards a colonial empire while Hitler's looked towards an expanded but continuous German territory on the Continent. In either case the chief practical implications were the same. The state or the nation could in principle control every act and every interest of every individual or group, in so far as the good of the nation required it, and of this the state was itself the sole judge. Except by the permission of the state there could be neither political parties, trade-unions, nor industrial or commercial associations; except under the regulation of the state there could be neither manufacture, business, nor labour; both work and leisure were within the control of the state; except under the direction of the state there could be neither publication nor public meeting; education, indeed, all the ethical, intellectual, and even religious interests of its members were theoretically within the keeping of the nation and the supervision of the state, even though it had in practice to compromise to some degree with the churches. In short, every value, economic, moral, or cultural, was a national value, and the state overlapped and regulated them all; in this sense the state was 'ethical' or totalitarian to the end that it might be strong. The so-called Charter of Labour in Italy began with this paragraph:

> The Italian nation is an organism having ends, life, and means of action superior to those of the separate individuals or groups of individuals which compose it. It is a moral, political, and economic unity that is integrally realized in the fascist state.[1]

The same idea has been expressed by Hitler, characteristically in terms of race and of the racial instincts which he conceived as binding a nation together and as providing the basis for its cultural achievements. For him race creates civilization and national states exist to afford the means by which a race secures the freedom needed to develop its spiritual capacities. The state is therefore the living organism of a nation, its means of self-preservation, and the agency for realizing its ideal powers.[2] The weakness of Germany he therefore attributed to racial diversity and the "lack of that sure herd-instinct" which makes a people lay aside its differences in moments of danger and present a united front to the common enemy.

> If the German people in its historical development had gained that herd-like unity, as other peoples have, the German Reich would to-day be mistress

[1] The Charter is translated in Schneider, *op. cit.*, Appendix, p. 332.
[2] *Mein Kampf*, p. 434.

> of the globe. The course of history might then have been different. Perhaps in that case the end might have been attained that to-day so many blind pacifists hope to accomplish by weeping and lamentation: a peace supported not by the palm-waving of tearful, pacifist wailing-women, but established by the victorious sword of a master-people, conquering the world in the interests of a higher civilization.[1]

The implications of the principle of totality for political organization included the destruction of parliamentarism and a free judiciary, and the raising of the executive to a position of dictatorship. Its ideal of organization, as Hitler has said, was the Prussian army as it was before the World War. Local governments were all reduced to the level of administrative organs of the central government. The powers of the federated states in Germany were also abolished with surprising ease, considering the ancient tradition that 'French' centralization was contrary to the national character. Perhaps provincialism was out of date in both Germany and Italy, and the fascist dictatorships, in this respect, were merely doing what was done elsewhere by the absolute governments of several centuries ago. Parliament fell under the general interdict against all liberal institutions, as included among things that had outlived their usefulness. Voting by numerical constituencies was declared to be mechanical, a reduction of the organic nation to a mere quantitative formula, though carefully managed plebiscites—a device of standing with dictatorships since Napoleon III—do not fall under the condemnation of the mechanical. Fascism thought of the mass of the nation as gifted mainly with instinct, an inchoate sense of national welfare, which enabled it to select a leader and follow him, but not to judge the wisdom or suitability of his policy. Fascism valued public opinion but only at its least articulate and coherent, in short, in the forms that were easiest to manipulate by propaganda and least easy to interpret as signifying anything explicit. Representation, it was held, ought to be by natural units, the units of national, economic, or occupational function. In consequence the formation of a new representative system depended upon the realization of the syndicalist or corporative state.

The corporative state, however, did not eventuate, with the result, of course, that it is impossible to say what it would have been like in practice. Though talked of in Germany, it was dropped, along with other socialist parts of the announced National Socialist programme, as the influence of the larger industrialists became stronger. In Italy the corporations which were intended to rationalize national production were planned as early as 1925, and some elements of the system, such as syndicates of employers and employees and the labour-courts, were put into effect. But the corporations themselves—the corporative bodies uniting horizontally the syndicates of employers and employees in a given branch of industry—were not created until 1934.

[1] *Mein Kampf*, pp. 437 f.

Then twenty-two corporations were set up with equal representation of the workers and employers in the industry, with some added representation from the outside to speak for the interests of the consuming public. The corporations were supposed to make rules for the discipline of production and for regulating the condition of the industry, though what this meant exactly it would be impossible to say. At the same time it was claimed that vocational representation was secured in the national legislature by the fascist scheme of elections, whereby the Grand Fascist Council offered to the country a slate of four hundred deputies picked from a thousand nominated in equal numbers by the employers' and the workers' syndicates. Since the slate had to be taken or rejected as a whole, what this obviously secured was representation of the fascist party.[1]

The general theory of the corporate state is simple enough. The idea of superseding the class-struggle of Marxian theory with a co-operation of workers and owners for the sake of increasing national production was obvious enough to have occurred to Italian syndicalists and nationalists alike, long before fascism was thought of. The duty of producing was recognized as an obligation to the nation in the Labour Charter in 1926, and this obligation was asserted to be equally binding on the owners of industry and on the workers. Private ownership was guaranteed and labour-contracts were left to collective bargaining, supplemented by conciliation-boards and regulated by the labour-courts. The conception of some sort of self-government for industry by the collective control of all engaged in it—workers, employers, and technical experts—had been exploited by syndicalists, with whom Mussolini was long identified, by guild socialists, and by Catholic socialists. In the fascist conception, however, the national control of industry rather than self-government in industry is the essence of the matter. Both in theory and in practice the state is above syndicates and corporations. It was a question, therefore, whether the newly organized corporations would not become administrative arms of the ministry of commerce for a more highly centralized political control over industry. Both working men and employers lost their independent organizations, and received in return equal representation in the corporation. It would be taking a good deal for granted to assume that equal representation meant equal power or equal access to the ministry and that influence went always through the regular channels of the corporation. In instituting the corporations Mussolini announced that capitalism was superseded and that the new organizations were a means to improving the standard of living for the masses.

[1] See Schneider, *Making the Fascist State*, ch. iv; Finer, *Mussolini's Italy*, ch. xvii.

FASCIST LEADERSHIP

The central political principle of fascism was that of leadership, of the Duce or Führer, and of the party at whose head he stood. This was implied by the fascist belief that human nature in politics is fundamentally instinctive and irrational and, therefore, requires a personal rather than an institutional authority. The nation collectively was sovereign, but its collective will was not expressed through a numerical device like the ballot but through its semi-mystical relation to the leader.

> Fascism insists that the government be entrusted to men capable of rising above their own private interests and of realizing the aspirations of the social collectivity, considered in its unity and in its relation to the past and future. Fascism therefore not only rejects the dogma of popular sovereignty and substitutes for it that of state sovereignty, but it also proclaims that the great mass of citizens is not a suitable advocate of social interest for the reason that the capacity to ignore individual private interests in favour of the higher demands of society and of history is a very rare gift and the privilege of the chosen few. Natural intelligence and cultural preparation are of great service in all such tasks. Still more valuable perhaps is the intuitiveness of rare great minds, their traditionalism and their inherited qualities. This must not however be construed to mean that the masses are not to be allowed to exercise any influence on the life of the state. On the contrary, among peoples with a great history and with noble traditions, even the lowest elements of society possess an instinctive discernment of what is necessary for the welfare of the race, which in moments of great historical crises reveals itself to be almost infallible.[1]

Similarly in his article in the *Enciclopedia* Mussolini has argued that government by an *élite* is the truest form of democracy. For a people, as a moral being, must be considered qualitatively and not quantitatively, as "the Idea, which is most powerful because most moral, most coherent, most true, and which becomes actual in the people as the conscience and will of a few, or even of one—an ideal that tends to realize itself in the conscience and will of all.[2] Hitler reached the same conclusion by an argument not in terms of the moral idea but in terms of race. The right of the highest race implies that of the highest racial elements in the nation, and ultimately that of the highest personality within the racial minority. Democracy is a philosophy which attributes the highest right to numbers. If this philosophy be set aside in favour of the aristocratic principle that the world ought to belong to the best nation, mere consistency requires that the best minds should be given the greatest influence within the nation. For the democratic idea of the majority should be substituted the idea of an ascending series of personalities.[3] Quite apart from the racial theory,

[1] Roscoe, "The Political Doctrine of Fascism," *International Conciliation*, No. 223, p. 21.

[2] Part I, sect. 9.

[3] *Mein Kampf*, p. 493.

however, Hitler had a much more concrete analogue for his conception of leadership, the military organization of the Prussian army. This he regarded as providing the proper principle to be followed in building a political constitution: authority from the top down and responsibility from the bottom up.[1] This plan of military organization is substantially similar to what Mussolini calls "hierarchy." Fascist leadership meant essentially that the nation was to be permanently on a war-footing, in respect to its organization and also its moral and psychological frame of mind.

The full meaning of fascist leadership cannot be grasped unless the procedure of the fascist leader—the relation in which he conceives himself to stand to his following—be kept also in view. So far as the public is concerned, the whole political process lies in the realm of feeling and will, not in that of intelligence, and this is doubly true of the masses whom the leader must influence, since they have little power of abstract thought, care little for truth, make few distinctions, and are best moved by the most violent passions. There can be then no question of instruction, no making an intelligent public opinion, no appeal to critical judgment. So far as the masses are concerned the force behind a political movement was not knowledge but rather fanaticism or even hysteria.[1] Consequently, in its relation to the public, fascist leadership was a kind of showmanship, depending on a skilful use of suggestion, collective hypnosis, and all the subconscious motivation to which advertising appeals. At the same time propaganda was supplemented by a judicious use of terrorism, an argument and a black-jack having, as Gentile says, the same use in "persuading a man to agree." This was not only what fascist leadership was in fact, but what it was avowedly meant to be and defended as being. Nothing is so remarkable in Hitler's *Mein Kampf* as the chapters in which he tells, obviously with the love of an artist for his art, how he perceived the advantages of oratory over written argument, copied the methods of the theatre and the church, and learned the effects of lighting, atmosphere, symbols, and the crowd. All these are aids in breaking down the resistance to suggestion. Even the time at which a meeting is held is important, since men are more open to influence at night and rhetoric is more successful with those "who have already experienced a natural reduction of the power to resist than with those who are in full possession of their intellectual and volitional vigour."[1]

Consequently the leader is neither a scholar nor a theorist. "The gift of formulating ideas has nothing to do with leadership."[1] He is rather a practical psychologist and an organizer He must be a master of propaganda in order to gain the largest number of passive adherents, and propaganda must use every means, "from the child's first picture-book to the latest newspaper, every theatre and picture-show, every

[1] *Mein Kampf*, p. 501. [2] *Ibid.*, p. 371. [3] P. 532. [4] P. 650.

bulletin and billboard."[1] He must be an organizer in order to build a small, compact party to fight for the movement and consolidate its victory. In order to be successful the main idea of a movement must be presented as nearly as possible to every one; in the event it must, if necessary, be forced on them. The organization, on the other hand, must be reserved to only as many as are required to fill key-positions in the state.[2]

FASCIST EDUCATION

Since the 'ethical' state overlaps every field of human activity and interest, there is no sharp line between politics and education, art, or even religion. According to the fascist theory all these are for the greater glory and power of the nation; only the churches have so far set up a feeble resistance against ranging religion alongside the other agencies of propaganda in the service of the state. From the start both in Italy and Germany fascism addressed itself especially to the task of indoctrinating children practically from the cradle.[3] Hitler once threatened to take the children of non-fascist families away from their parents to give them proper training, but nothing of the sort has been attempted. Rocco, remarking that fascism was too original to be understood by the intellectual classes and those with mature minds, added a little naïvely that it was very successful "with young people, with women, in rural districts, and among men of action unencumbered by a fixed and set social and political education." In Italy the fascist theory of education was mainly the work of Gentile, who early became Minister of Education. Apparently he tried to make really useful reforms in the Italian system of schools until he was forced to resign. Gentile started from the "anti-intellectualism" of his own philosophy, developed long before fascism appeared. By intellectualism he meant in philosophy the mere observer's attitude, as distinguished from that of the man who takes an active share in affairs, and in education rote-learning, merely formal exercises, and information which plays no part in forming a child's character or taste or judgment. This, of course, was excellent, provided a child's character and judgment were really trained, but how can such training be made compatible with the blind acceptance of fascist dogma? A quotation given above from Alfred Rosenberg shows what he thinks is the purpose of teaching history in German schools.

Hitler, also, has discussed the aims of education at some length. According to him the primary purpose of education in a national state is to induce in the minds of young people an apprehension both

[1] P. 715. [2] P. 654.

[3] The institutions are described by H. W. Schneider and S. B. Clough in *Making Fascists* (Chicago, 1929), and by Finer, *op. cit.*, Part V. For Germany see Schuman, *op. cit.*, ch. x.

emotional and intellectual of the fundamental importance of purity of race.[1] The first purpose, accordingly, is to strengthen the body, the second is to train character, and only the third and last is to give intellectual training. The cultivation of character should aim at trustworthiness, self-sacrifice, determination, and delight in responsibility; the last, it will be remembered, runs from below upward. The present needs that Hitler saw in general education were mainly that it should be shortened to make room for physical education, that useless learning should be eliminated and essentials reduced to summary form, and that it should be sharply distinguished from technical education in order that it might be "idealized."

> In science also the national state must see a means of raising national pride. Not only political history but the whole history of civilization must be taught from this point of view. A discoverer must appear great not only as a discoverer but still greater as a fellow countryman. The admiration for every great deed must be bathed in pride at the fact that he who happily performed it was a member of one's own people. From the roll of all the great names in German history the greatest must be selected and so convincingly presented to the youth that they become the pillars of an unshakeable patriotism.[2]

It goes without saying that what Rosenberg calls "the old vicious freedom of teaching without limitations" was gone, to give place to what was called the "true" freedom of science. This was made clear by the Minister of Education, Bernard Rust, at the centenary of Heidelberg University.

> The old idea of science based on the sovereign right of abstract intellectual activity has gone for ever. The new science is entirely different from the idea of knowledge that found its value in an unchecked effort to reach the truth. The true freedom of science is to be an organ of a nation's living strength and of its historic fate and to present this in obedience to the law of truth.[3]

This denial of abstract intellectual activity was quite coherent with the principles of fascism, for its general philosophy, like its political theory, was irrationalist; it used words like truth in a sense of its own. As impartiality and tolerance are expunged from the roll of virtues, so objectivity and factuality are expunged from the nature of things. Intellect became identical with will, and reality with the myth of national power. Martin Heidegger, an eminent German philosopher, in a declaration issued by the university professors to support Hitler in the election of 1933, said "truth is the revelation of that which makes a people certain, clear, and strong in its action and knowledge." Alfred Rosenberg speaks of "organic" or teleological truth, that which is in accord with the upbuilding force in the race. "The most completely developed knowledge possible to a race is implicit in its first religious myth."

[1] *Mein Kampf*, pp. 475 ff. [2] Pp. 473 f. [3] *New York Times*, June 30, 1936.

FASCISM AND COMMUNISM

It is inevitable that comparisons should be drawn between the fascist and the communist systems, for they were professed rivals, and yet held much in common. The similarities were manifest. Both were dictatorships; both condemned liberalism and parliamentarism in unmeasured terms; both tolerated but a single political party, which was in substance hardly distinguishable from the government of the state. In both the party was a self-proclaimed *élite*, the 'best' brains and hearts, entrusted with the mission of giving ordinary men what was good for them and making them want it. The power of the faction in control of the party had to be perpetuated in both systems by bloody 'purges' which at the best were hardly more than judicial murder and at the worst were murder pure and simple. Both stepped quite outside the traditional sphere of politics and built an educational system (using the word in the widest sense) which was designed to indoctrinate the whole population and which bent the arts, the sciences, and in principle religion to this purpose. Both systems, in so far as they allow free discussion at all, limited it to points within the dogmas of the system. Even the two philosophies in their most abstract aspects were not wholly diverse. For dialectic, even in the materialist version that Marx gave it, was not without elements of mysticism and romanticism that were of a piece with the more violent irrationalism of the fascists. Both induced a frame of mind akin to religious devotion, and in both devotion took the form of a communal loyalty, whether to a social class or to a national state.

Despite these similarities, however, there are differences which appear on the whole to be more important. The philosophy of communism has behind it a long history of intellectual development, the outcome of three generations of investigation and discussion, which has given it a considerable measure of coherence and continuity of growth. In it thought in a measure preceded action, in the sense that neither Marx nor Lenin made his philosophy to fit the exigencies of an occasion. The philosophy of fascism has been largely *ad hoc* and has been patched together from the existing fund of ideas either to justify what had already been done or to meet situations that were immediately in prospect. The philosophy of communism at least puts a value on intellectual consistency and objectivity of investigation. The dialectic as a method of research may, and probably does, rest upon an intellectual confusion, but it has honestly claimed to be a logical instrument, yielding results that can be discussed in the light of evidence and rationally evaluated. The philosophy of fascism was fundamentally irrationalist, offering a myth created by intuition or by instinct and made 'true' by the very act of willing or believing it. By reason of this difference there is, potentially at least, a difference between fascist and com-

munist indoctrination. The former starts from the conviction that the masses can be taught only by indoctrination, because they lack the power of self-directing thought. Like Aristotle's slaves they possess only intelligence enough to obey. In consequence education for them can be only habituation and emotional stimulation. Communist education in principle sets no arbitrary bounds to the possibility of raising the general level of intelligence. In both systems the party is a self-chosen *élite*, but the communist *élite* professes as an ideal its own ultimate extinction. The ideal of a classless society may be utopian, but it is at least a generous and humane utopia.

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